

E-filing

S5

COMPLAINT BY A PRISONER UNDER THE CIVIL RIGHTS ACT, 42 U.S.C §§ 1983

3 Name Sims. DERRICK ①.
 4 (Last) (First) (Initial)

5 Prisoner Number J-20913

6 Institutional Address P.O. BOX 7500
 7 CRESCENT CITY CA. 95531

FILED

MAR 28 2008

RICHARD W. WIEKING
 CLERK, U.S. DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

10 DERRICK sims.
 11 (Enter the full name of plaintiff in this action.)

12 vs.
 13 MICHAEL DR. SAYRE (CMO) M. MCLEAN (FNP)(HCM),
 14 J. JOSEPH KRAYITZ (CCII), B. GAMPLES (CCII)
 15 C. GOROSPE. STAFF SERVICE ANALYST.
 16 N. GRANNIS. LINDA ROWE: MD.
 17 (Enter the full name of the defendant(s) in this action))

CV } 08 1691 SBA
 Case No. _____
 (To be provided by the clerk of court)
 COMPLAINT UNDER THE
 CIVIL RIGHTS ACT,
 42 U.S.C §§ 1983
 (PR)

18 [All questions on this complaint form must be answered in order for your action to proceed.]

19 I. Exhaustion of Administrative Remedies

20 [Note: You must exhaust your administrative remedies before your claim can go
 21 forward. The court will dismiss any unexhausted claims.]

22 A. Place of present confinement PELICAN BAY SECURITY HOUSING UNIT.

23 B. Is there a grievance procedure in this institution?

24 YES NO

25 C. Did you present the facts in your complaint for review through the grievance
 26 procedure?

27 YES NO

28 D. If your answer is YES, list the appeal number and the date and result of the

1 appeal at each level of review. If you did not pursue a certain level of appeal,
2 explain why.

3 *CDC-1824*

4 1. Informal appeal APPEND # ADA. PBSP.B07-01270

5 FILED. 5/20/07. DENIED. BY DR. M. SAYRE ON 6/1/07
SIGNED OFF BY. C. GORSPE.

6 2. First

7 formal level AFTER 1824 IS DENIED AT INFORMAL LEVEL
IT IS SCREENED ON TO CDC 602. AT LEVEL F.
TO SECOND LEVEL.

8 3. Second formal level DENIED ON 7/11/07 BY (FNP)

9 HCM. M. MCLEAN.. SIGNED OFF BY J. KRAVITZ.

10 CCW...

11 4 Third

12 formal level DENIED BY CHIEF INMATE APPEALS
No GRANNIS.

13
14 E. Is the last level to which you appealed the highest level of appeal available to
15 you?

16 YES NO

17 F. If you did not present your claim for review through the grievance procedure,
18 explain why.
19

20
21 II. Parties

22 A. Write your name and your present address. Do the same for additional plaintiffs,
23 if any.

24 DERRICK SIMS 5-20913

25 DS-211 P.O. BOX 7500.

26 CRESCENT CITY CA. 95531

27 B. Write the full name of each defendant, his or her official position, and his or her

1 place of employment.

2 MICHAEL C. SAYRE, CHIEF MEDICAL OFFICER... G. GOROSPE (STAFF
3 SERVICE ANALYST) B. SAMPLES (CORRECTIONAL COUNSELOR II.)
4 LINDA LOWE, MEDICAL DOCTOR.
5 JOSEPH KRAVITZ, (CORRECTIONAL COUNSELOR II.) MURREEN MCLEAN,
6 (FAMILY NURSE PRACTITIONER, AND HEALTH CARE MANAGER) C. GRANNIS
7 ALL WORK AT PELICAN BAY STATE PRISON. D.

8 P.O. BOX 7500 CRESCENT CITY CA 95531 III.

9 Statement of Claim AND STATEMENT OF FACTS

10 State here as briefly as possible the facts of your case. Be sure to describe how each
11 defendant is involved and to include dates, when possible. Do not give any legal arguments or
12 cite any cases or statutes. If you have more than one claim, each claim should be set forth in a
13 separate numbered paragraph.

14 1. THIS COMPLAINT IS FOR INJUNCTIVE RELIEF AND DAMAGES FOR
15 DEFENDANTS' DELIBERATE INDIFFERENCE TO THE SERIOUS MEDICAL NEEDS
16 OF PLAINTIFF DERRICK SIMS, J-20913, DURING HIS CONFINEMENT
17 AT PELICAN BAY STATE PRISON [SHU]. DEFENDANTS "INDIVIDUALLY AND
18 COLLECTIVELY" OF HAVING ACTED" WITH ARBITRARY, CAPRICIOUS, AND
19 DELIBERATE DISREGARD AND INDIFFERENCE" IN VIOLATION OF
20 PLAINTIFF'S RIGHT TO BE FREE OF CRUEL AND UNUSUAL PUNISH-
21 MENT. 2) ON (5/20/07) PLAINTIFF FILED A CDC R. 1824 (ADA,)
22 (AND DISCRIMINATED AGAINST THE AMERICANS WITH DISABILITY ACT,
23 REASONABLE MODIFICATION OR ACCOMMODATION REQUEST FORM)
24 THIS FORM IS ONLY TO BE USED BY INMATES WITH DISABILITIES
25 (SEE EXHIBIT A) PLAINTIFF FILED THIS FORM TO INFORM
26 PELICAN BAY PRISON THAT HIS DISABILITY IS BEING AFFECTED.
27 SEE CONTINUED PGS 2.1-2.8

28 IV. Relief

Your complaint cannot go forward unless you request specific relief. State briefly exactly
what you want the court to do for you. Make no legal arguments; cite no cases or statutes.

(1) PLAINTIFF PRAYS THAT THE COURT GRANTS TEMPORARY -

1 STATEMENT OF CLAIM.

2 BY THE EVERYDAY CONDITIONS AT PELICANBAY STATE PRISON
3 (SECURITY HOUSING UNIT).

4 3. PLAINTIFF LIVES WITH ASTHMA AND HAS LIVED WITH
5 THIS DISABILITY SINCE HIS YOUTH AS A CHILD.

6 4. WHEN PLAINTIFF FILED HIS (1824), HE REQUESTED
7 EMERGENCY MEDICAL TRANSFER TO ANOTHER PRISON
8 (SHU). THAT BEST SUITS HIS DISABILITY UNDER (A.D.A.).

9 PLAINTIFF'S ASTHMATIC STATE QUALIFIES FOR
10 MEDICAL TRANSFER. (THE AIR QUALITY IN AND AROUND
11 (PBSP) IS POOR DUE TO THE CONTROL BURNING OF
12 TRASH, DEAD LEAVES, BRANCHES, ALSO WOODSTOVES OF
13 RESIDENCE AND OR CITY WORKERS..

14 5. THE SMOKE, SENT AND FUMES ARE IRRITANTS THAT
15 LINGER ON TO THE (SHU) YARDS ALSO ENTERING THROUGH
16 THE VENTILATION SYSTEM, CONSISTING OF DUST, SOOT,
17 AND ASH...

18 6. (SEE EXHIBIT (A) PG(17). WHICH IS DUST, SOOT AND
19 ASH. CONTAINED IN A ZIPLOCK. (NOTICE TO COURT) THE
20 SUPERIOR COURT OF DEL NORTE COURT IS IN POSSESSION
21 OF ORIGINAL ZIPLOCK AS PLAINTIFF HAS FILED A
22 HABEAS CORPUS WITH THE STATE ALSO. WHICH IS CASE
23 NO: HOPBOT-5163. PLAINTIFF ALSO REQUESTED MONEY
24 DAMAGES IN HABEAS CORPUS WRIT.

25 7. THE VENTILATION SYSTEM IN THE (SHU) IS
26 INADEQUATE, DUE TO IT BEING A BLOWER SYSTEM
27 WITH NO INTAKE SYSTEM. MEANING THE SYSTEM
28 ONLY SUCKS IN AIR FROM OUT SIDE AND BLOWS-

1 AIR INTO HOUSING UNITS WITHOUT INTAKE TO CIRCULATE AIR.
2 AND WHEN THE BURNING OCCURS THIS TRIGGERS WHAT
3 COULD BE SERIOUS RESPIRATORY PROBLEMS WHERE PLAINTIFF
4 STRUGGLES TO BREATHE.. RESULTING IN CHEST PAINS,
5 SHORTNESS OF BREATH, AND WHEEZING.

6 8. ON (9/29/06) PLAINTIFF SUBMITTED A SICKCALL SLIP
7 TO MEDICAL AND WAS SEEN BY (RN.) FOR COMPLAINTS
8 OF ASTHMA. BREATHING DIFFICULTIES. (SEE EXHIBIT (B-1))

9 9. ON (10/13/06) PLAINTIFF SEEN (LINDA ROWE MD)
10 FOR SICKCALL COMPLAINING OF BREATHING DIFFICULTIES
11 (SEE EXHIBIT. (B-2)).

12 10. ON (11/9/06) PLAINTIFF SEEN RN. FOR SICKCALL
13 COMPLAINING OF BACK AND CHEST PAINS AT AROUND THAT
14 TIME WAS AWAITING A (PFT) TEST. WHICH RESULTED NORMAL.
15 (SEE EXHIBIT) (B-3))

16 11. DEFENDANT (LINDA ROWE M.D.) IS CURRENTLY EMPLOYED
17 BY (CDC & R.) AS A PHYSICIAN AT (PBS/P) AND IS RELEVANT
18 HEREIN AT ALL TIMES.

19 12. ON (3/5/07) PLAINTIFF SEEN (LINDA ROWE MD.)
20 FOR (CHRONIC CARE VISIT) AND COMPLAINED OF BEING
21 AWAKEN AT TIMES BY CONTROL BURNING WHICH TRIGGERS
22 HIS ASTHMA. (SEE EXHIBIT) (B-4)

23 13. FINALLY ON (5/20/07) WHEN PLAINTIFF FILED
24 THE (1824) (AMERICANS WITH DISABILITIES APPEAL),
25 ON (6/6/07) (DEFENDANT) (DR. MICHAEL CLIFTON SAYRE)
26 (CMO) CONDUCTED (FIRST LEVEL REVIEW.) AND DENIED
27 REQUEST. STATING PLAINTIFF'S ASTHMA IS FAR FROM
28 THE STAGE TO CONSIDER TRANSFER... (EXHIBIT (A) PG.(5))

1 14. DEFENDANT (MICHAEL CLIFTON SAYRE MD.) (IS AND
2 AT ALL TIMES RELEVANT HEREIN, IS CURRENTLY EMPLOYED
3 BY C.D.C.R. AS A PHYSICIAN AND SERGEN, A CHIEF
4 MEDICAL OFFICER (CMO). PLAINTIFF IS INFORMED AND
5 BELIEVES AND THEREON ALLEGES DEFENDANT IS A PROPERLY
6 TRAINED AND LICENSED MEDICAL DOCTOR WHO IS AND
7 HAS BEEN RESPONSIBLE FOR THE MEDICAL CARE OF
8 ALL INMATES AT (PBSP.) THIS INCLUDES BUT NOT
9 LIMITED TO, THE SUPERVISION DIRECTION, AND/OR PROPER
10 TRAINING OF THE MEDICAL STAFF AT (PBSP) IN THE
11 DELIVERY OF HEALTH CARE SERVICES, AND MANAGEMENT.
12 ALSO DETERMINATION OF PROPER MEDICAL CARE FOR INMATES.)

13 15. DURING FIRST LEVEL INTERVIEW PLAINTIFF
14 EXPLAINED THE FACTS AND HIS FEARS OF DYING FROM
15 AN ASTHMA ATTACK DUE TO CONTROL BURNINGS..

16 16. DEFENDANT'S DENIAL OF FIRST LEVEL AND STATE-
17 MENTS DISPLAYS DELIBERATE INDIFFERENCE. ALSO ORDERING
18 TEST TO SEE IF PLAINTIFF IN FACT HAS ASTHMA IS
19 RETALIATION TOWARDS PLAINTIFF DUE TO FACT PLAINTIFF'S
20 MEDICAL FILE IS WELL DOCUMENTED THAT HE HAS ASTHMA
21 ALSO PLAINTIFF PROVIDED A CDCR MEDICAL CHRONO
22 (128C) ALONG WITH (1824 FORM.) (SEE EXHIBIT) (A) PG.(4)

23 17. THE TESTS THAT DOCTOR SAYRE ORDERED IS
24 (1) A PULMONARY FUNCTION TEST (PFT) AND A
25 ASTHMA CHALLENGED TEST.

26 18. ON (6/12/07) PLAINTIFF SUBMITTED HIS (1824)
27 TO (2ND) LEVEL, (EX.(A.) PG.(7))

28 19. ON (6/14/07) PLAINTIFF TOOK A (PFT) TEST-

1 AT (PBSPI) CLINIC. WHICH THE RESULTS WERE. (SEVERE OBSTRUCTION)
 2 SEE EXHIBIT (A) PG.(15.)

3 20. ON (6/25/07) PLAINTIFF WHILE AWAITING THE SECOND
 4 LEVEL APPEAL RESPONSE. RECEIVED A CDCR MEMO.

5 APPEAL SUSPENDED NOTICE. SIGNED BY CORRECTIONAL
 6 COUNSELOR II (B. SAMPLES) (EXHIBIT) (A) PG(11)

7 21. ON (7/2/07) PLAINTIFF SEEN LINDA ROWE AND
 8 ATTEMPTED TO EXPLAIN THE USE OF HIS INHALER AND
 9 SPECIFIC WARNINGS TOWARDS HIS HEALTH. (SEE BX. (B)(5))

10 22. ON (7/11/07) (HEALTH CARE MANAGER) (HCM) (FNP)
 11 DEFENDANT (MAUREEN MCLEAN) ALONG WITH (JOSEPH KRAVITZ)
 12 (CORRECTIONAL COUNSELOR II.) DENIED PLAINTIFF'S SECOND
 13 LEVEL APPEAL WITHOUT (SPECIALTY EXPERT CONSULTATION)
 14 (SEE EXHIBIT) (A PG. 12-13)

15 23. PLAINTIFF ALLEGES THAT DUE TO THE ABOVE
 16 ACTIONS DEFENDANTS WERE SATISFIED THAT HE HAS
 17 ASTHMA DUE TO RESULTS OF (PFT.) TEST TAKEN
 18 ON 6/14/07. AND MOVED FORWARD TO CORRECT
 19 THEMSELVES. AND COVER UP DR. MICHAEL SPYRES
 20 ACTIONS.

21 24. DEFENDANT (MAUREEN MCLEAN) (FNP) (HCM)
 22 IS RELEVANT AND EMPLOYED BY CDCR. AS FAMILY
 23 NURSE PRACTITIONER, AND HEALTH CARE MANAGER OF (PBSPI)
 24 .

25 25. ON (7/29/07) DISAGREED WITH RESULTS OF
 26 SECOND LEVEL. PLAINTIFF FILED APPEAL TO THIRD (3RD)
 27 AND FINAL LEVEL OF ADMINISTRATION. IN SACRAMENTO.
 28 IN THE MEANTIME STILL AWAITING A SECOND TEST-

1 26. ON (8/22/07.) PLAINTIFF APPEARED AT (ST. JOSEPH'S
2 HOSPITAL EURIKA.) TO TAKE (ASTHMA CHALLENGE TEST.)
3 DURING ATTEMPT TO TAKE TEST PLAINTIFF WAS ORDERED
4 TO BLOW ON MACHINE WITH ALL HIS WIND SEVERAL
5 TIMES.. AFTER SEVERAL MINUTES INTO TEST THE
6 TECHINIAN (E. LEVIN) TOLD PLAINTIFF "THAT'S IT YOU
7 FAILED THIS TEST." AFTER READING THE (PFT) TEST
8 YOU TOOK AT THE PRISON ON (6/14/07) ITS OBVIOUS
9 YOU HAVE ASTHMA. PRISON MEDICAL SHOULD OF
10 KNOWN THAT BY READING THE (PFT,) AND NEVER
11 SENT YOU...") THE TECHINIAN WENT ON TO STATE
12 THIS TEST IS SOLEY DESINGED FOR PEOPLE WHO
13 SHOW NORMAL (PFT) TEST, TO SEE IF THEY HAVE
14 ASTHMA. IT GIVES ASTHMA ATTACKS. YOUR (PFT)
15 CONFIRMS YOU HAVE A PROBLEM... TO GIVE YOU THIS
16 TEST IS WRONG... YOU DO NOT MEET THE PROTOCOL..
17 (SEE EXHIBIT) (C.)...

18 27. ON (8/28/07) PLAINTIFF SEEN (DEFENDANT LINDA ROWE
19 MD) FOR (CHRONIC CARE) AND (SICKCALL.) DURING VISIT
20 PLAINTIFF COMPLAINED OF CHEST PAINS AND SHORTNESS OF
21 BREATH, (SOB) RELATED TO ASTHMA AND BURNINGS. THAT
22 TRIGGER THE DIFFICULTIES. DURING THIS CONVERSATION WITH
23 THE DEFENDANT, THE SMELL OF THE BURNING CAME DOWN
24 THROUGH THE VENTILATION AND PLAINTIFF EXPLAINED TO
25 (LINDA ROWE) "YOU SMELL THAT?, IT COMES THROUGH THE
26 CELLS AND PADS MUCH STRONGER!"

27 28. (LINDA ROWE'S) RESPONSE WAS ("YES I SMELL IT
28 AND IT SOMETIMES BOthers, ME TOO" AND CONTINUED-

1 BY SAYING WHEN THE SMELL IRRITATES YOUR ASTHMA YOU NEED
 2 TO LET US KNOW SO WE CAN REMOVE YOU FROM THAT
 3 ENVIRONMENT...)

4 29. PLAINTIFF ASKED "WHEN YOU REMOVE ME,
 5 FROM THAT ENVIRONMENT WHERE YOU GOING TO PLACE ME
 6 IF IT SMELLS OF SMOKE IN HERE TO CLINIC?)?

7 30. AT THAT TIME DEFENDANT CHANGED THE
 8 SUBJECT AND ARGUED WITH HIM ABOUT HIS USE OF
 9 (FLOWVENT INHALER) (SEE EXHIBIT)(3). PG.(1-2).(AND INHALER TABLE)

10 31. DEFENDANT ALSO STATED "I DON'T KNOW WHY DR.
 11 SAYRE ORDERED THIS CHALLENGE TEST WE ALREADY
 12 KNOW YOU HAVE ASTHMA YOUR MEDICAL FILE SAYS IT AND
 13 THIS 6/14/07 (PFT) SHOWS IT. I COULD OF TOLD
 14 HIM THAT. AND HE'S AN (ANESTHESIOLOGIST). HE SHOULD
 15 KNOW THAT, BASED ON (PFT) SCORES., IM GOING TO
 16 HAVE TO TALK TO HIM (SAYRE) AND SEE WHAT'S
 17 GOING ON. AT THAT TIME LINDA ROWE WENT TO
 18 RM. 1 OF THE CLINIC AND CALLED DR. SAYRE AND
 19 CAME BACK AND TOLD ME YOUR ASTHMA IS UNDER
 20 CONTROL AFTER SHE TOLD ME IN THE BEGINNING OF
 21 VISIT IT WAS NOT IN CONTROL (SEE EXHIBIT.(1).PG(1-2))
 22 AT LINES 18 OF PG(2). FILED 8/28/07. STAMPED ON UPPER
 23 RIGHT CORNER (SEPT. 13. 07.) SEE ALSO (EX) #3 G(B7)

24 31. ON 8/30/07. THIRD LEVEL DENIED APPEAL. (Exhibit)(B)

25 32.

26 ON 10/10/07. PLAINTIFF SEEN (R.N.) (BREE) FOR
 27 SICK CALL SLIP SUBMITTED ON 10/7/07 COMPLAINING OF
 28 HEADACHES. ALSO OF HAVING YET ANOTHER ASTHMA-

1 ATTACK DUE TO BURNINGS. SEE EXHIBIT (B.8.)

2 33. AT ALL TIMES MENTIONED IN THIS COMPLAINT EACH
 3 INDIVIDUAL WAS ACTING IN THEIR OFFICIAL CAPACITY
 4 UNDER THE COLOR OF STATE LAW. AND IN THE SCOPE
 5 OF THEIR EMPLOYMENT.

6 34. CHIEF OF INMATE APPEALS N. GANNIS DENIED
 7 APPEAL AT THIRD LEVEL. ON 2/30/07 SEE EXHIBIT (A)

8 35. (DEFENDANTS) NAMED IN THIS COMPLAINT
 9 WITH THE EXCEPTION OF TECHNICIAN (E. LEVIN) HAVE
 10 AND CONTINUE TO DISCRIMINATE AGAINST PLAINTIFF
 11 BECAUSE OF HIS ASTHMA BY FAILING TO MAKE
 12 REASONABLE ACCOMMODATIONS SUCH AS TRANSFERRING
 13 PLAINTIFF TO ANOTHER PRISON DUE TO ENVIRONMENT...
 14 FAILURE TO ACCOMMODATE A DISABILITY CONSTITUTES
 15 DISCRIMINATION UNDER (ADA)

16 36. IT IS UNDISPUTED THAT PLAINTIFF SUFFERS
 17 FROM ASTHMA WHICH IS A PHYSICAL IMPAIRMENT
 18 AFFECTING THE RESPIRATORY SYSTEM.

20 37. DEFENDANTS ARE AWARE OF A PREVIOUS
 21 PATTERN OF DELIBERATE AND CALLOUS INDIFFERENCE
 22 TO THE MEDICAL NEEDS OF INMATES IN (PBP)
 23 MISDIAGNOSED AND RESULTING IN PHYSICAL AND
 24 EMOTIONAL HARM.

26 38. BURN INJURIES DOCUMENTED BY DEFENDANT
 27 AS THEY OCCUR ARE ENCLOSED SEE- EX. (F)

1 39. ON (1/23/08) PLAINTIFF SUFFERED AN ASTHMA
2 ATTACK AND WAS TAKEN TO D. CLINIC AND THEN
3 SPECIALTY CLINIC ER ROOM. (1) SEE EXHIBIT (F) PG.
4 II CONTINUED LINE NO (II)... (SEE ALSO) (EXHIBIT B. 9)
5 CONCLUSION.

6 40. PLAINTIFF ALSO REQUEST THIS HONORABLE COURT
7 APPOINT HIM COUNSEL DUE TO HIS (GPA.) GRADE-
8 POINT LEVEL BEING AT 2.5. AND A READING SCORE
9 OF 3.3. THAT OF A THIRD GRADER. THOUGH
10 PLAINTIFF CAN READ HE HAS ENLISTED THE aid
11 OF HIS SURROUNDINGS. (SEE. EXHIBIT)(E)

13 41. DEFENDANT MICHAEL SAYRE HAS PRIORS FOR
14 TAKING UNREASONABLE RISK SEE. (EXHIBIT) (B)

16 42 (PBSP) STAFF ARE VIOLATING THE (ADA)
17 AMERICANS WITH DISABILITY ACT.) 42 U.S.C § 12102
18 ARMSTRONG v. WILSON. (N.D. CAL.) C 94-2307. COURT ORDER.
19 ALSO 7.2 FEDERAL STANDARD. "DELIBERATE INDIFFERENCE
20 TO SERIOUS MEDICAL NEEDS.

21 42. A TORT CLAIM WAS PRESENTED AND DENIED
22 BY BOARD OF CONTROL. (SEE EXHIBIT, H)...
23
24
25
26

27 DATE 3/20/08
28

PG.(3)(a.8)

Derrick Sims
IN PROSE

1 INJUNCTIVE RELIEF MEDICAL TRANSFER TO CORCORAN (SHU) UNTIL

2 CASE IS COMPLETE (2) PERMINANT INJUNCTIVE RELIEF, ACCOMMADATE
3 HIS DISABILITY.. (3) PUNITIVE DAMAGES ACCORDING TO PROOF IN THE
4 SUM OF \$1,000,000(4) COMPENSATORY DAMAGES ACCORDING TO PROOF(S)
5 FOR REASONABLE FEES FOR ATTORNEY PURSUANT TO 42 U.S.C. § 1988
6 (6) FOR COST OF THE SUIT AND FOR ANY OTHER RELIEF DEEMS
7 JUST AND PROPER.. (7) PLAINTIFF PRAYS THAT THE COURT SEES
HE IS A LAYMAN AT LAW WITH A G.P.L. GRADE POINT LEVEL OR 2.5

8 AND READING LEVEL OF 3.3. AND APPOINS COUNSEL. SEE EXHIBIT (6.)
9 DECLATORY RELIEF.

10 I declare under penalty of perjury that the foregoing is true and correct.

11 Signed this 3 day of 20, 2008

12 Derrick Sims

13 (Plaintiff's signature)

14

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24

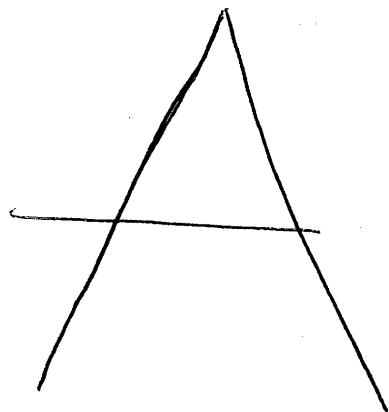
25

26

27

28

EXHIBIT (A).
ADA APPEAL
LEVEL (I)



STATE OF CALIFORNIA

**REASONABLE MODIFICATION OR
ACCOMMODATION REQUEST**
 CDC 1824 (1/95)

INSTITUTION/PAROLEE REGION:	PBSP	LOG NUMBER:	B07-01270	CATEGORY:
				18. ADA

NOTE: THIS FORM IS TO BE USED ONLY BY INMATES/PAROLEES WITH DISABILITIES
In processing this request, it will be verified that the inmate/parolee has a disability which is covered under the Americans With Disabilities Act.

INMATE/PAROLEE'S NAME (PRINT)	CDC NUMBER	ASSIGNMENT	HOURS/WATCH	HOUSING
DERRICK SIMS	J-20913	SHU/prisoner		C-2-114

In accordance with the provisions of the Americans With Disabilities Act (ADA), no qualified individuals with a disability shall, on the basis of disability, be excluded from participation in, or be denied the benefits of the services, activities, or programs of a public entity, or be subjected to discrimination.

You may use this form to request specific reasonable modification or accommodation which, if granted, would enable you to participate in a service, activity or program offered by the Department/institution/facility, for which you are otherwise qualified/eligible to participate.

Submit this completed form to the institution or facility's Appeals Coordinator's Office. A decision will be rendered within 15 working days of receipt at the Appeals Coordinator's Office and the completed form will be returned to you.

If you do not agree with the decision on this form, you may pursue further review. The decision rendered on this form constitutes a decision at the FIRST LEVEL of review.

To proceed to SECOND LEVEL, attach this form to an Inmate/Parolee Appeal Form (CDC 602) and complete section "F" of the appeal form.

Submit the appeal with attachment to the Appeals Coordinator's Office within 15 days of your receipt of the decision rendered on this request form.

If you are not satisfied with the SECOND LEVEL review decision, you may request THIRD LEVEL review as instructed on the CDC 602.

MODIFICATION OR ACCOMMODATION REQUESTED

DESCRIPTION OF DISABILITY

ASTHMATIC...

 PELICAN BAY STATE PRISON
 SECURITY HOUSING UNIT

UNIT C-2

WHAT VERIFICATION DO YOU HAVE OF YOUR DISABILITY?

128 C. MEDICAL CHRONO... ATTACHED..

DESCRIBE THE PROBLEM:

I AM ASTHMATIC AND DUE TO THE CONTROL BURNING & BURNING OF TRASH ON OR AROUND THE PRISON MY RESPIRATORY PROBLEMS ARE SERIOUS & CAN BE LIFE THREATENING. THE SMOKE ASH & SOOT, COME INTO THE PODS & CELL AIRBORN & THROUGH THE VENTILATION SYSTEM, EVERY WEEK & MONTHLY EVEN AFTER THE FIRE IS OUT I STILL STRUGGLE TO BREATH, WHEEZING CHEST PAIN & SHORTNESS OF BREATH DUE TO IT LINGERS INTO THE VENTS.. CONTINUE

WHAT SPECIFIC MODIFICATION OR ACCOMMODATION IS REQUESTED?

TRANSFER TO ACI SHU. WHERE AIR IS FRESHER & NOT SMOKE INFESTED OR COR SHU. LEVEL(H) ACTION REQUEST CONTINUED. FOR MAKING ME SUFFER WANTON BREATHING PROBLEMS, MENTAL STRESS FEAR OF MY LIFE COMPENSATION IN THE AMOUNT OF \$5,000.0000

Derrick Sims

(1)

5/20/07

INMATE/PAROLEE'S SIGNATURE

MAY 21 2007

JUN 06 2007

JUN 12 2007

DATE SIGNED

2ND Attest

**REASONABLE MODIFICATION OR ACCOMMODATION REQUEST
CDC 1824 (1/95)**

REVIEWER'S ACTION

TYPE OF ADA ISSUE

DATE ASSIGNED TO REVIEWER: *6/6/07*
DATE DUE: *6/27/07*

- PROGRAM, SERVICE, OR ACTIVITY ACCESS (Not requiring structural modification)
- Auxiliary Aid or Device Requested
- Other _____
- PHYSICAL ACCESS (requiring structural modification)

DISCUSSION OF FINDINGS:

See attached response

DATE INMATE/PAROLEE WAS INTERVIEWED

PERSON WHO CONDUCTED INTERVIEW

DISPOSITION

GRANTED DENIED PARTIALLY GRANTED

BASIS OF DECISION:

See attached response

NOTE: If disposition is based upon information provided by other staff or other resources, specify the resource and the information provided. If the request is granted, specify the process by which the modification or accommodation will be provided, with time frames if appropriate.

DISPOSITION RENDERED BY (NAME)

TITLE

INSTITUTION/FACILITY

CMO

APPROVAL

ASSOCIATE WARDEN'S SIGNATURE

DATE SIGNED

6/7/07

(2)

DATE RETURNED TO INMATE/PAROLEE

DESCRIBE PROBLEM: FIRST LEVEL... A.D.A. 1824

1 CONTINUED II. 1824 ACT. SIMS J-20913

2 1) THE VENTILATION SYSTEM IS NOT ADEQUATELY FIT FOR ASTHMATICS
 3 DUE TO ITS NOT UNIVERSAL, I.E. DOES NOT CIRCUMVENT AIR
 4 IF ONLY BLOWS, THERE IS NO SUCTION TO SUCK IN DIRTY
 5 AIR. PLUS THE SMOKE SOOT & ASH BLOW IN THROUGH BARS
 6 OUTSIDE THE H.U.S & ALSO COMES IN THROUGH THE VENTS
 7 FILLING MY CELL, I'VE USE MY INHALER BEEN ON ASTHMA CARE
 8 & SINGULAIR WHICH OR NOTHING WHEN THESE BURNINGS
 9 TAKE PLACE. MY CELL FILLS WITH SMOKE ASH, & RED SOOT
 10 AND LINGERS IN THE VENT FOR HOURS SOMETIMES DAYS AT
 11 A TIME... SEE. HELLING V. McMILLAN (1992) 503 U.S. 25.
 12 [113 S. CT. 2475 125 L. ED. 2d 22].

13
 14 PELICAN BAY STATE PRISON
 15 SECURITY HOUSING UNIT
 16 UNIT C-2

Derrick Sims J-20913
 DERRICK SIMS. J-20913

FIRST LEVEL Adm. VERIFICATION...

PELICAN BAY STATE PRISON
HEALTH CARE SERVICES UNIT

CHRONIC CARE CLINIC CHRONO

NAME: SIMS, D. CDC#: J-20913 UNIT: C6-124L DATE: 4/16/04

Inmate _____, CDC# _____, has been enrolled in the following Chronic Care Program (s).

- Diabetes
- Cardiovascular
- Gastrointestinal
- Hypertension
- Seizure Disorder

PELICAN BAY STATE PRISON
SECURITY HOUSING UNIT
UNIT C-2

Pulmonary

Asthma

TB

PLEASE CIRCLE WHICH ONE

General Medicine PLEASE SPECIFY DIAGNOSIS: HCV MEAT

Conn
Signature

Distribution:

Original Unit Health Record
cc: Inmate
 MedSched Scheduler

(4)

PELICAN BAY STATE PRISON
FIRST LEVEL SUPPLEMENTAL PAGE
SECURITY HOUSING UNIT
First Level Reviewer's Response
UNIT C-2 ADA

RE: PELICAN BAY STATE PRISON

Appeal Log #: PBSP-B-07-01270
Inmate Name: SIMS J20913

APPEAL DECISION: DENIED

APPEAL ISSUE: You filed a CDC 1824 on May 20, 2007 requesting a transfer to another CDC facility due to the fact you claim your asthma is made worse by the controlled burning that takes place around the prison. You claim the smoke and soot enters the pods and cell airborne through the ventilation system. You claim this causes you to both struggle to breath and wheeze.

FINDINGS: Your appeal with the attachments and your requested action has received careful consideration. On June 6, 2007 Dr. Sayre, Chief Medical Officer interviewed you for this appeal. A review of your medication shows that you have just had the most basic increase in anti-inflammatory therapy. Your case is far from the stage where a transfer would even be considered. It does not appear that an asthma challenge test has occurred. I told you that I would look in to this matter to make sure the appropriate tests are done to determine if you do in fact actually have asthma. You agreed to this course of action and acknowledged your understanding.

DETERMINATION OF ISSUE: A thorough review of your request presented in this complaint has been completed. Based on this review, the action requested to resolve the appeal is denied

C. Gorospe
C.GOROSPE
Staff Services Analyst

6/6/07
Date

M. Sayre
M. SAYRE, M.D.
Chief Medical Officer

6/7/07
Date

EXHIBIT (A) LEVEL'S..

(2) STARTS AT (F.)

LEVEL (3) ALSO STARTS
ON SAME PAGE AT (H)

(F)= 2ND LEVEL CONTINUES ON PGS. 8-9~~~10~~

(H)= 3RD LEVEL CONTINUES ON PGS. 13-14. AND 15...

COURT DOCUMENTS DO NOT CONCEAL OR REMOVE/DESTROY

STATE OF CALIFORNIA

PELICAN BAY STATE PRISON

INMATE/PAROLEE

SECURITY HOUSING UNIT

APPEAL FORM

CDC 802 (12/87)

UNIT C-2

Location: Institution/Parole Region

1. PBSP

DEPARTMENT OF CORRECTIONS

Category

18 DOD

Log No.

1. BO7-01270

2.

You may appeal any policy, action or decision which has a significant adverse affect upon you. With the exception of Serious CDC 115s, classification committee actions, and classification and staff representative decisions, you must first informally seek relief through discussion with the appropriate staff member, who will sign your form and state what action was taken. If you are not then satisfied, you may send your appeal with all the supporting documents and not more than one additional page of comments to the Appeals Coordinator within 15 days of the action taken. No reprisals will be taken for using the appeals procedure responsibly.

NAME	NUMBER	ASSIGNMENT	UNIT/ROOM NUMBER
DERRICK SIMS	J-20913		C-2-114

A. Describe Problem:

1824

If you need more space, attach one additional sheet.

B. Action Requested:

Inmate/Parolee Signature: Derrick Sims

Date Submitted: _____

C. INFORMAL LEVEL (Date Received: _____)

Staff Response: _____

Staff Signature: _____

Date Returned to Inmate: _____

D. FORMAL LEVEL

If you are dissatisfied, explain below, attach supporting documents (Completed CDC 115, Investigator's Report, Classification chrono, CDC 128, etc.) and submit to the Institution/Parole Region Appeals Coordinator for processing within 15 days of receipt of response.

Signature: _____

Date Submitted: _____

Note: Property/Funds appeals must be accompanied by a completed Board of Control form BC-1E, Inmate Claim

CDC Appeal Number: _____

(6)

F.LEVEL. CONTINUED Adm. 1824 / 602

1 RIVERSIDE, SUP. CT. NO: RIC.3186501, AND PREVENTIVE CARE.
 2 DISATISFIDE CONT. (1) ON 6-7-07 I WAS SCREENED FOR ADA.
 3 APPEAL BY SAYRE. M.C. MD. AND DENIED MY ADA RIGHTS
 4 GUARANTEED BY LAW, AND TOLD TO FIRST TRY ALL THE
 5 THERAPIES BEFORE BEING CONSIDERED FOR REQUESTED MODIFI-
 6 CATION, ACCOMMODATION... (2) ON 6-4-07 I WENT FOR CHRONIC
 7 CARE FOR ASTHMA, & COMPLAINED ABOUT MY CONDITION
 8 WITH THE SMOKE, & WAS OFFERED A NEW INHALER AND
 9 DUE TO MY OTHER CHRONIC CONDITIONS, I AM NOT ABLE TO
 10 TAKE MOST MEDICATIONS FOR MY ASTHMA, I EXPLAINED
 11 TO LINDA ROWE MD. THAT I'VE HAD (2) ASTHMA ATTACKS
 12 DURING THE MIDDLE OF THE NIGHT, DUE TO SMOKE
 13 INHALATION ON 5/25 & 26/07 11:49 & 9:09, AM & DURING THE
 14 P.M. HRS. AND BOTH TIMES NOT ABLE TO CALL MANDOWN
 15 FOR INHALER, DUE TO LACK OF BREATH FROM ATTACKS.
 16 LUCKLY BOTH WERE NOT SEVERE OR TRAGIC. WHEN I
 17 HAVE ASTHMA ATTACKS/EPISODES, I'M DISABLED FROM
 18 SPEAKING LOUD, OR ALERTING MY SURROUNDINGS OF NEED
 19 FOR MEDICAL ATTENTION OR INHALER... (3) THIS PBSP SHU,
 20 VENTILATION SYSTEM IS INADEQUATE FOR ME DUE TO THERE
 21 IS NO INTAKE, OUTTAKE VENTS WHICH INKAKE SUCKS IN
 22 AIR. "FOR PROPER CIRCULATION", THERE IS ONLY OUTTAKE"
 23 (BLOWER) WHICH WHEN BURNING OCCURS THE SMOKE IS
 24 CIRCULATING IN ALL THE H.U.S. THROUGH THE VENTS.
 25 EVEN IF THE DOOR IS OPEN IT JUST CIRCULATES
 26 THROUGH THE PODS ASHES, SOOT... ON 6-8-07 I OVER
 27 HEARD. CCI PEDERSON AT 12:34 P.M. ASKING C-2-GUNNER

II
F. LEVEL CONT. ADD 1824 / 602

MRS. BRYANT ABOUT TURNING THE AIR UP. SHE STATED "IT'S
 ALL THE WAY UP. ON 6-9-07 AT APPROX. 10:10 AM AN
 INCIDENT OCCURED IN C-2-C POD, REQUIRING THE USE
 OF PEPERSPRAY. THE PEPERSPRAY TRAVELED THROUGH
 THE VENT SYSTEM & CAME IN FROM THE YARDS CAUSING
 ME YET ANOTHER ASTHMA ATTACK, IN WHICH I CALLED OUT
 FOR MY INHALER & MY NEIGHBOR CALLED FOR ME TOO, SINCE
 I LOST MY BREATH & STAYED STILL & CALM DURING ATTACK
 AND THE RELIEF GUNNER SAID STAND BY... I WAS NEVER
 GIVEN MY INHALER TILL 1:18 PM, WHICH CAUSE ME TO
 SUFFER FOR SEVERAL HRS. WHICH IS CRUEL & UNUSUAL
 PUNISHMENT. 14TH AMENDMENT, AT NO OTHER INSTITUTION
 HAVE I ENDURED THIS MANY COMPLAINTS FROM MY
 DISABILITY, EXCEPT COR. IN SUMMER DUE TO HEAT. SINCE
 I'VE BEEN AT PBSP. I'VE TRIED (3) DIFFERENT INHALERS
 (ASTHMACORE TWICE) ALBUTEROL, & FLOVENT, ALSO SEVERAL DIFFERENT
 ALLERGY MEDS. AND CONTINUE TO STRUGGLE, PBSP
 PRACTICES NOT PREVENTION, BUT WAITING TIL ONE IS
 SERIOUSLY ILL, BEFORE TAKING ADEQUATE MEDICAL ACTIONS.
 SEE ESTELLE V. GAMBLE, 429 U.S. 97. 106 SU L ED 2d 251. 97
 S. CT. 285. (1976), ALSO UNDER THE 7.2 FEDERAL STANDARD.
 (DELIBERATE INDIFFERENCE TO A SERIOUS MEDICAL NEEDS.
 M. SAYRE AND PBSP STAFF ARE IN VIOLATION OF THIS
 STANDARD VIOLATION OF MY DUE PROCESS, CONSTITUTIONAL
 STATE & FEDERAL RIGHTS. THIS IS THE THIRD TIME
 M. SAYRE HAS ACCUSED ME OF LYING BUT NEVER
 TO MY FACE, TWICE TO CPF. & PRISON LAW OFFICERS.

PELICAN BAY STATE PRISON
SECURITY HOUSING UNIT

INMATE WHITFIELD TO ASTHMATIC ATTACK ON

6-9-07 DAY of USE of PEPPER SPRAY

TO DISPERSE INCIDENT IN C-Z-C POD

1 FALAK Adelene Rca (4) J8849 C-2-115

2 DOGMAN Lorraine S K 19126 C-2-116

3 Rochas R Paul Richard T 51449 C-2-113

4 An Ono D 61550 C-7-213

5 MARRON H. Y Marion K 55920 C-2-214

6

ADA Log # PBSR-B-01270

SIMJ 5-20-913

(F) LEVEL

ATTACHMENT

State of California

Department of Corrections and Rehabilitation
Pelican Bay State Prison

Memorandum

Date : June 25, 2007

To : SIMS, J20913
CF02L 000000114LSubject: **SUSPENDED APPEAL LOG NUMBER: PBSP-B-07-01270**

This memorandum is to inform you that the above referenced CDC Form 1824, Reasonable Accommodation or Modification Request has been suspended pending specialty testing. The Armstrong Remedial Plan states:

Upon determination that expert consultant is required, medical staff shall inform the Appeals Coordinator of the referral and the appeal time frames shall be suspended until the expert consultants report is received by health care staff.

You will need to be seen by contract medical personnel before the institution medical staff can respond to the issues raised in your appeal. When documentation is received, your CDC Form 1824 shall be processed accordingly. The original due date is no longer valid for this appeal and will be recalculated after your consultation takes place.

You are expected to cooperate with all efforts to verify your claimed disability. Your failure to cooperate will result in your appeal being cancelled.

B. Langlois, ACT
Appeals Coordinator (A)
Pelican Bay State Prison

SECOND LEVEL APPEAL RESPONSE
ADA

RE: PELICAN BAY STATE PRISON

Appeal Log: PBSP-B-07-01270

Inmate: SIMS J20913

Maureen McLean, FNP, Health Care Manager at Pelican Bay State Prison, (PBSP) reviewed this matter. Joseph Kravitz, Correctional Counselor II, conducted the Appeal at the Second Level of Review on July 11, 2007.

APPEAL ISSUE: You filed a CDC 1824 on May 20, 2007 requesting a transfer to another CDC facility due to the fact you claim your asthma is made worse by the controlled burning that takes place around the prison. You claim the smoke and soot enters the pods and cell airborne through the ventilation system. You claim this causes you to both struggle to breath and wheeze.

Your appeal with the attachments and your requested action has received careful consideration. On June 6, 2007 Dr. Sayre, Chief Medical Officer interviewed you for this appeal. A review of your medication shows that you have just had the most basic increase in anti-inflammatory therapy. Your case is far from the stage where a transfer would even be considered. It does not appear that an asthma challenge test has occurred. He told you that he would look in to this matter to make sure the appropriate tests are done to determine if you do in fact actually have asthma. You agreed to this course of action and acknowledged your understanding.

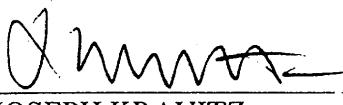
FINDINGS: A review of your appeal, including staff's efforts to resolve the appeal at the informal level and at the first formal level, together with your responses, has been completed. All submitted documentation and supporting arguments of the appellant have been considered.

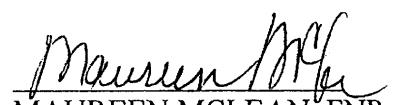
I, M. McLean, FNP, Health Care Manager, was assigned to investigate your allegations. J. Kravitz, CC II, reviewed your appeal and responses on July 11, 2007. This appeal was suspended pending an asthma challenge test at an outside local hospital. The test was originally scheduled today but for reasons beyond the control of CDR the test has been rescheduled to a later date. Due to security concerns the date will not be revealed to you. After further review of your medical record it is noted you had a pulmonary function test done here at the institution on June 14, 2007. The results were noted to be severe obstruction. Your primary care provider is following you on a regular basis and you were last seen on July 2, 2007. You did not have any complaints related to your asthma. After further discussion and consideration of your medical condition, regardless of the results of the asthma challenge test you are scheduled to take in the future, Pelican Bay State Prison's Health Care Services Department is able to provide the level of care you need for your asthma. As such, a recommendation for a medical transfer would not be made. You are advised to take all medications and use your asthma inhalers and nose spray as directed by your primary care provider. If you have any shortness of breath or asthma symptoms you are to notify custody staff immediately so they can have the medical staff provide you the care you need. If you have questions and or concerns of a non-emergent nature you are to notify your health care team via the CDC 7362 process. This concludes the review of this appeal at the second level.

PBSP-B-07-01270
SIMS J20913
Page 2

DECISION: The Appeal is denied.

The appellant is advised that this issue may be submitted for a Director's Level of Review if desired.

 7-11-07
JOSEPH KRAVITZ Date
Correctional Counselor II

 7/16/07
MAUREEN MCLEAN, FNP Date
Health Care Manager

ADA pg 2 of
H LEVEL...

3RD LEVEL...

(H.LEVEL)

ESTELLE V. GAMBLE 429 U.S. 97, 106 SO WED 2d 97 JST. 285 (1976) ALSO THE NINTH CIRCUIT HAS RECOGNIZED THAT ACCESS TO MEDICAL STAFF IS MEANINGLESS UNLESS THE STAFF IS COMPETENT TO RENDER CARE. SEE ORTIZ V. CITY OF IMPERIAL 984 F.2d 1312, 1314. (9th cir., 1989) DELIBERATE INDIFERENCE WHEN MEDICAL STAFF DISREGARDED EVIDENCE OF COMPLICATIONS TO HEAD JURY AND PROSECUTOR'S CONTRADICTION IN TESTIMONY. SEE HELLING V. MCKENNEY, 509 U.S. 25, 34-35 (1993) EXPOSURE TO SMOKE... HELLING AT 33 ("IT WOULD BE UNWISE TO DENY AN INJUNCTION TO INMATES WHO PREDIABLY PROVED UNSAFE, LIFE THREATENING CONDITION IN THEIR PRISON ON THE GROUND THAT NOTHING HAD HAPPENED; YET TO THE MORN. ALSO SEE (HELLING AT 36) "I HAVE ASTHMA TOO."

PRISON STAFF FALSE DOCUMENT/STATEMENT OF 7-2-07-- I SEEN MD TO DISCUSS PFT RESULTS.. AND RN DID NOT TAKE PEAK FLOW. I ASKED WHY AND WAS TOLD NOT NEEDED. DURING THE DISCUSSION I DID IN FACT COMPLAIN OF ASTHMA DUE TO CONTROL BURNING. THE PRIOR NIGHT 7-1-07 AT 9:40 PM, I SEEN MJ ROWE AT APPROX. 9:30 AM HRS. 7-2-07.. SEE PREVENTIVE CARE RULES, PREVENTIVE CARE SERVICES MUST BE CONDUCTED AS RECOMMENDED BY THE UNITED STATES PREVENTIVE TASK FORCE UNDER 14TH AMENDMENT.. ASTHMA IS NOT SUPPOSED TO REACH A STAGE THAT REQUIRES TRANSFER, TO DO SO IS JEOPARDIZING MY LIFE & WELLBEING.. BLATANTLY DISCRIMINATION OF ADA ACT. COURT ORDER.. SEE SUPPORTING DOCUMENTS ON ASTHMA.. ALSO CELL SEARCH SLIP RECEIPT. CLEARLY SHOWS THE DIAPHRAM OF CELL CONSTRUCTION THERE'S ONLY ONE VENT OUTTAKE, NO INTAKE VENT.. CLEARLY INADEQUATE FOR AN ASTHMA PATIENT. VENT SYSTEM SUCKS IN AIR FROM OUTSIDE BLOWING INTO CELLS & PODS. SMOKE COMES WITH IT DURING CONTROL BURNING...

3RD. LEVEL CONTINUED... PG 3-OF. H LEVEL..

1. I AM SINGLE CELL AND WHEN HAVING A ATTACK I CAN NOT
2. CALL OUT. SEE SUPPORTING DOCUMENTS pg #20 I AM NOT SUPPOSE
3. TO BE ALONE ~~BYING~~ WITH DISABILITY I HAVE...
4. ALSO SEE pg #19. THE ENVIRONMENT I'M HOUSED IN IS NOT
5. ASTHMA HEALTY IN HOUSE NEXT TO THE DOG I GET DIESIE
6. FUMES & OTHER CAR TOXINS FROM OVER THE WALL ALONG
7. WITH CONTROL BURNING SMOKE AT TIMES. SEE EVIDENCE IN
8. ZIP LOCK ITS STUFF/DUSTMITES OFF YARD & OUT OF CELL &
9. ACCUMULATED IN ONE DAY... SEE ACCOMMODATION REQUESTED
10. FURTHERMORE PFT. DATED 6-14-07 SHOWS SEVERE OBSTRUCTION
11. SEE PFT 6/14/07 & ASTHMA SUPPLEMENT pg. 9, I.E. ASTHMA SEVERITY
12. CLASSIFICATION, MEASURES OF LUNG FUNCTION ETC, ETC. FURTHER
13. PBSP STAFF CONTINUE TO VIOLATE CDC MEDICAL STANDARDS OF CARE.
14. DOM. SEC. 93011: AND THE TITLE 22 SECTION 51301 & 54301 CCR TITLE
15. 15. 3350-3370... ALSO NAMI V. FAUVER, 82 F.3d 63, 67 (3d Cir. 1996)
16. 8TH AMENDMENT VIOLATED DUE TO CONDITIONS, SUCH AS POOR VENTILATION.
17. VENTILATION, EXPOSURE TO ENVIRONMENTAL SMOKE, AND LACK OF
18. EXERCISE. 2788 WILSON, 501 U.S. AT 301-05 (APPLYING "DELIBERATE
19. INDIFFERENCE" STANDARD TO CONDITIONS OF CONFINEMENT..
20. STAFF ALSO STATE I'VE HAD "NO" ASTHMA CHALLENGE. I
21. FIRST... THE DAY MY NEW REINHALER WAS PRESCRIBED IS
22. THE DAY I COMPLAINED OF TWO THAT OCCURRED IN
23. THE MIDDLE OF THE NIGHT ALSO SEE SIGNATURES OF
24. WITNESS OF 3RD ATTACK DUE TO PEPPER SPRAY.
25. FOR ASTHMATICS EVERYDAY IS A CHALLENGE!
26. SEE LEVEL (P) LINE # 6, 7, and 8. I'VE BEEN COMPLAINING
27. TEST SHOWS OBVIOUS RESPIRATORY ISSUES... Sims Derrick.

PELICAN BAY STATE PRISON
SPIROMETRY/PFT TEST

Communications Established with Satellite.

1 record has been automatically downloaded to the Base Station.

Jones Medical
Instrument Co.
200 Windsor Dr.
Oak Brook, IL

06/14/07 08:44 AM BTPS 25°C
Hgt ----- 68" Sex ----- Male
Age ----- 32 Race ----- Non Caucasian
Subject ID ----- 20913
Subject Name -----

	Pred	Meas	%
FVC	4.13	2.98	72*
FEV1	3.45	1.10	32*
FEV1%	85	37	-48*
MMEF	4.34	.41	9*
PEFR		2.64	
FEV.5		.80	
FEV2		1.54	
FEV3		1.92	
FEV2%		52	
FEV3%		64	
FEF25		1.17	
FEF50	5.12	.44	9*
FEF75	2.14	2.64	123
FEF75-85		2.73	
INDEX	100	23	-77

Reduced FVC and FEV1 indicates severe obstruction.

- MAXIMAL EFFORT
- FAIR EFFORT
- POOR EFFORT

Volume vs. Time

(15)

1 2 3 4 5 6 7 8

NAME: Sims, DERRICK

CDC #: J20913

HOUSING: C2-114 L

DATE: 6-14-07

BURN DATES

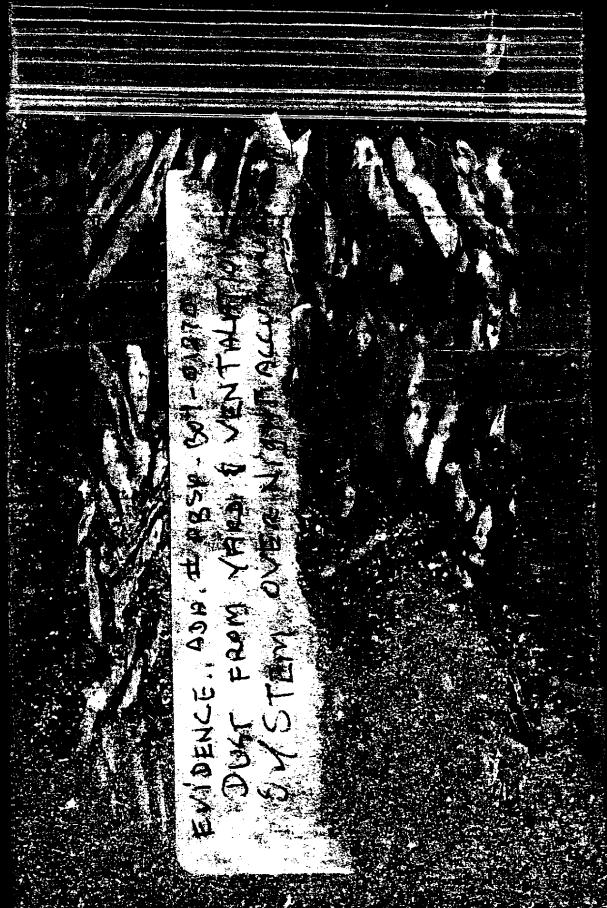
6/23/07 8:30 AM 9:07

6/24/07 10:22 AM

6/25/07 9:09 AM

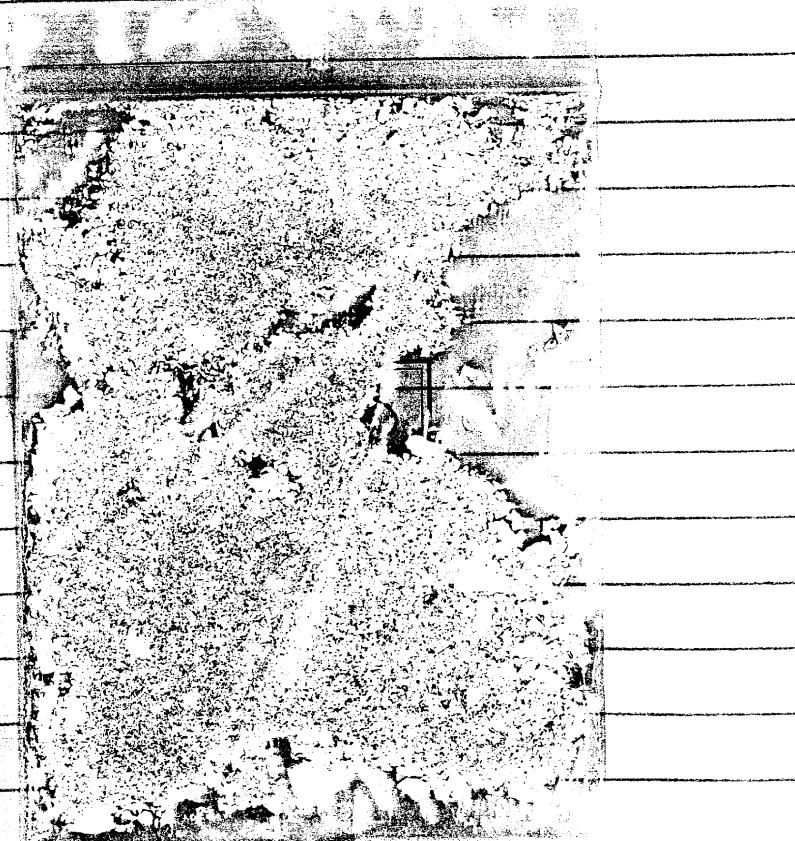
6/27/07 9:09 AM

6/28/07 AM ALSO 6/27/07 DURING DOORS MAINTENANCE STAFF
TESTED SMOKE BOMB TO TEST FIRE BREAKDOWN & VULNERABILITY
TO SEE HOW LONG IT TAKES FOR SMOKE TO CLEAR
OUT DOORS SEVERAL DAYS LATER FAILED
7/1/07 9:40 PM 7/11/07 7:35 AM 7/15/07 9:40 AM
BURNINGS THREE PLACE IN THE ABOVE PATTERN
FROM WINTER & RAINY SEASON TILL MID JULY
EVERY YEAR APPX. 8 1/2 MONTHS A YEAR



~~REDACTED~~

Paint chips that chip off the back walls in
cells all cells in c-2-3 pod ANOTHER trigger
of asthma... SEE strategic plan pg. 19-1 Box
PETITIONER SLEEPS right next to said wall...
PAINT falls from wall EVERYDAY...



SIMS ADD # PBSP-07-01270

PELICAN BAY STATE PRISON

DATE: 10-06-07 TIME: 14 10 UNIT/CELL: C2-114

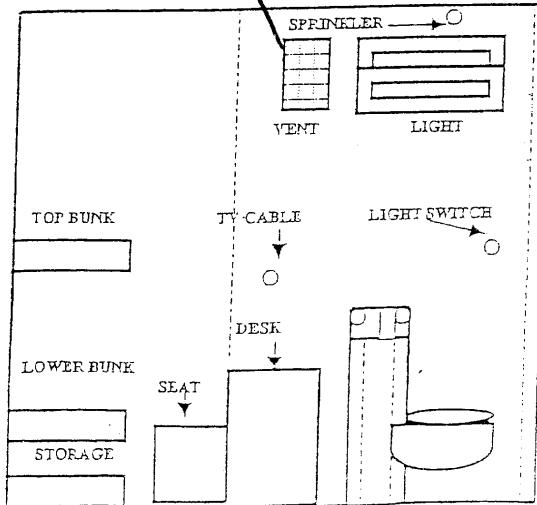
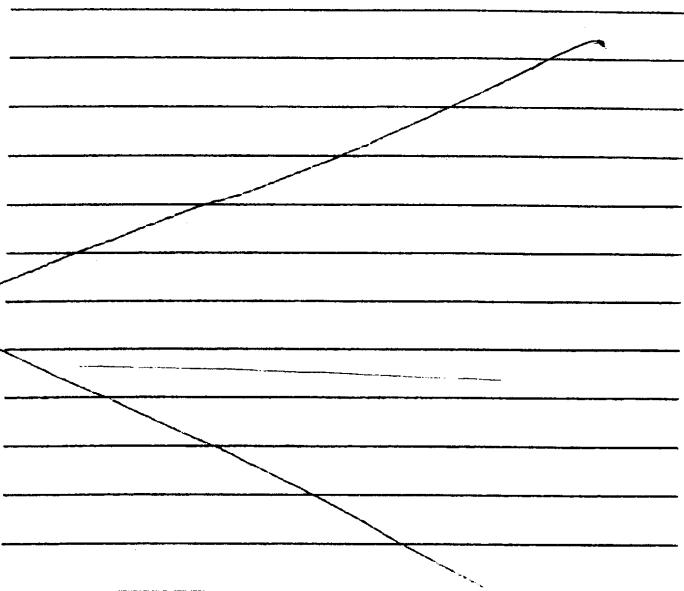
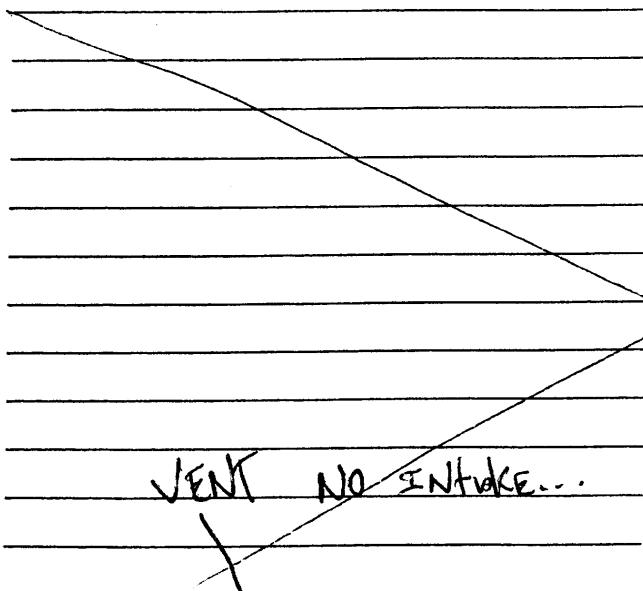
INMATE ASSIGNED BED AND APPLIANCE:

INMATE (L): <u>SIMS</u>	CDC#: <u>J-20913</u>	INMATE (U): _____	CDC#: _____
TELEVISION/RADIO SERIAL#:	<u>KT11 7218</u>	TELEVISION/RADIO SERIAL#:	_____
<input checked="" type="checkbox"/> WORKING	<input type="checkbox"/> NOT WORKING	<input type="checkbox"/> WORKING	<input type="checkbox"/> NOT WORKING

CONDITION OF CELL:

NEAT CLEAN DIRTY NEEDS REPAIRS/COMMENT: _____

ITEMS CONFISCATED:



DISCIPLINARY DOCUMENTATION:			
<input type="checkbox"/>	CDC 115	FOR _____	OFFICER _____
<input type="checkbox"/>	CDC 128A	FOR _____	OFFICER _____

SEARCHED BY:	
BUMBY	SIGNATURE
PRINT NAME	
PRINT NAME	SIGNATURE

Cell searches are not intended as punishment. Staff are responsible for ensuring they respect inmate's property during searches. Staff are to properly document all items confiscated during the search and their disposition. A copy of this Worksheet/Receipt will be given to the cell occupant(s) when the search is completed.

ORIGINAL: HOUSING UNIT

INMATE(S) ASSIGNED TO CELL

STATE OF CALIFORNIA
DEPARTMENT OF CORRECTIONS AND REHABILITATION
INMATE APPEALS BRANCH
P. O. BOX 942883
SACRAMENTO, CA 94283-0001

DIRECTOR'S LEVEL APPEAL DECISION

AUG 30 2007

Date:

In re: Derrick Sims, J20913
Pelican Bay State Prison
P.O. Box 7000
Crescent City, CA 95531-7000

IAB Case No.: 0702189 Local Log No.: PBSP-07-01270

This matter was reviewed on behalf of the Director of the California Department of Corrections and Rehabilitation (CDCR) by Appeals Examiner B. Sullivan, Staff Services Manager I. All submitted documentation and supporting arguments of the parties have been considered.

I APPELLANT'S ARGUMENT: It is the appellant's position that he suffers with breathing problems and mental stress due to his asthma and respiratory problems which are aggravated at the Pelican Bay State Prison (PBSP). He says that due to controlled burning, the smoke, ash, and soot come into the Pods and his cell through the ventilation system. He struggles to breathe and wheezes along with having chest pains and shortness of breath. He asks to be transferred to the California Correctional Institution Security Housing Unit (SHU) or the Corcoran State Prison SHU where the air is fresher. He also asks for compensation in the amount of \$5,000.000.

II SECOND LEVEL'S DECISION: The reviewer found that the appellant was examined by the Chief Medical Officer (CMO) on June 6, 2007. It was noted that the appellant had just had the most basic increase in his anti-inflammatory therapy. His case is far from the stage where a transfer would even be considered. On June 14, 2007, the appellant received a pulmonary function test at PBSP and the results did show severe obstruction. However, the appellant's primary care physician is following him on a regular basis and he was last seen on July 2, 2007. The appellant did not have any complaints at that time related to asthma. It is determined that PBSP's Health Care Services Department is able to provide the level of care the appellant requires. The appellant is advised to take all medications and use his asthma inhalers and nose spray as directed. If he has shortness of breath he is to notify staff immediately to ensure medical care is provided if necessary. The appeal is denied at the Second Level of Review.

III DIRECTOR'S LEVEL DECISION: Appeal is denied.

A. FINDINGS: At the Director's Level of Review, the appellant claims that medical staff at PBSP are violating the Americans with Disabilities Act (ADA) Court Order and the Madrid Act by not following ADA policy and placing his life in danger.

However, it is noted that the appellant receives ongoing medical care at PBSP and his asthma concerns are consistently monitored. The CMO at PBSP has determined the appellant's medical needs can be met at PBSP. If at some point PBSP can no longer treat the appellant's medical condition appropriately, and a transfer is indicated, then all appropriate transfer procedures will be completed. The California Code of Regulations, Title 15, Section (CCR) 3354 establishes that only qualified medical staff shall be permitted to diagnose illness and prescribe medication and medical treatment for inmates. It is not appropriate for the appellant to self-diagnose his own medical and transfer needs and then expect a medical doctor to implement the appellant's recommendation. While the appellant may not agree with the physician's determination that his asthma can be treated at PBSP, he must understand that each practitioner determines, at the time of treatment, the extent of treatment for the health care problem. The appellant has not provided a compelling argument to warrant modification of the decision reached by the institution. The appellant's request for compensation will not be addressed in this appeal as it is beyond the scope of the Appeals Process. If the appellant chooses, he may submit a request to the Government Claims Unit as listed below.

DERRICK SIMS, J20913
CASE NO. 0702189
PAGE 2

B. BASIS FOR THE DECISION:

Armstrong Remedial Plan: ARPI, ARPII.A, ARPII.F

CCR: 3350, 3354

C. ORDER: No changes or modifications are required by the Institution.

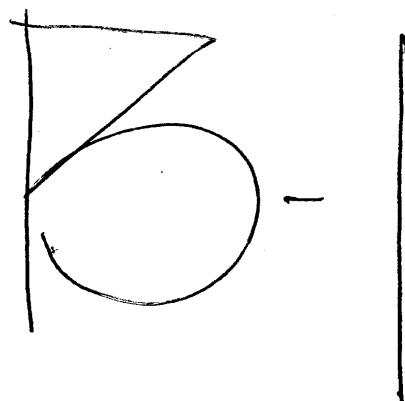
This decision exhausts the administrative remedy available to the appellant within CDCR. If dissatisfied, the appellant may forward this issue to the California Victims Compensation and Government Claims Board, (formerly known as the State Board of Control), Government Claims Unit, P.O. Box 3035, Sacramento, CA 95812-3035, for further review.



N. GRANNIS, Chief
Inmate Appeals Branch

cc: Warden, PBSP
Health Care Manager, PBSP
Appeals Coordinator, PBSP
Medical Appeals Analyst, PBSP

EXHIBIT B... (1)
MEDICAL NOTES...



Visit Start Dt/Tm: 09-29-2006 0825 Encounter Type: SICK CALL

Visit Reason: 7362 NURSING EVALUATION

Subjective

Entry Date: 09-29-2006 0827

Entered By: MPIMSLCB . BREE, RN

Updated Date: 09-29-2006 0842

Updated By: MPIMSLCB . BREE, RN

Inmate states he is on chronic care Asthma and he is having breathing difficulties occasionally at least 2 times a day in the last 2 days where he gets a sharp pain on inspiration and even using his inhaler does not help. He also state he feels his house smells like mold or mildew even after he scrubs it.

Objective**Vitals**

Vitals Dt/Tm: 09-29-2006 0843 Temp (°F): 98.7 Pulse: 83 Respiration: 16

Blood Pressure: 127/71 Wgt: 166 Hgt: " Provider: BREE, RN , LORI

Notes:

Other

Name: 7362

Provider: BREE, RN , LORI

Other Dt/Tm: 09-29-2006 0844

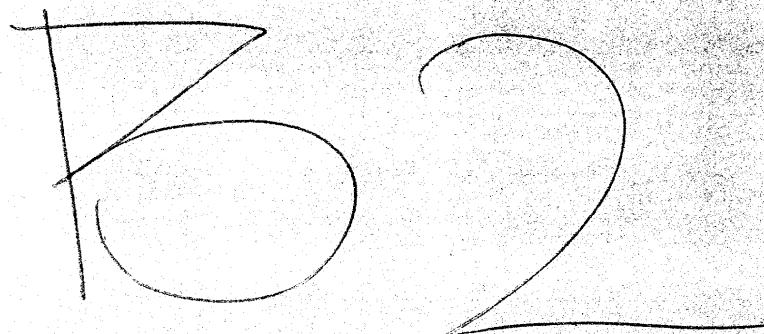
Notes:

PHYSICIAN'S PROGRESS NOTES

CDC #: J20913

Name(L.F.M.S): SIMS, DERRICK

EXHIBIT (B)(2)



Visit Start Dt/Tm: 10-13-2006 1000 Encounter SICK CALL

Visit Reason: 7362 PCP EVALUATION

Subjective

Entry Date: 10-13-2006 1319

Entered By: MPIMSLMR , ROWE, MD

Updated Date: 10-13-2006 1321

Updated By: MPIMSLMR , ROWE, MD

Pt c/o off and on " breathing problems with inspiration and sharp chest pains" for the past 2 weeks

Not having it today; last episode was allegedly 2 day ago and last week

Uses Albuterol about 2 x week and is taking his Singulair

No cough/sinus drainage or fever/chills

Objective**Vitals**

Vitals Dt/Tm: 10-13-2006 1147 Temp (°F): 97.4 Pulse: 88 Respiration: 14

Blood Pressure: 142/88 Wgt: 167 Hgt: Provider: CAMPBELL, LVN , LESHEL

Notes:

Other

Name: sick call

Provider: ROWE, MD , LINDA

Other Dt/Tm: 10-13-2006 1321

Notes:

PHYSICIAN'S PROGRESS NOTES

CDC #: J20913

Name(L.F.M.S): SIMS, DERRICK

EXHIBIT (B-3)

B - 3

Visit Start Dt/Tm: 11-09-2006 0858 Encounter : SICK CALL

Visit Reason: 7362 NURSING EVALUATION

Subjective

Entry Date: 11-09-2006 0901

Entered By: MPIMSLCB , BREE, RN

Updated Date: 11-09-2006 0906

Updated By: MPIMSLCB , BREE, RN

- Inmate submits 7362 stating he is having back pain and chest pain the same as he had when last seen. He has since had 2 EKGs and a chest x ray and is awaiting other intervention for his back. He states he has intermittent spasms and they keep him from his activities of daily living because he is so uncomfortable. He states he is awaiting PFT testing also in conjunction with last month's chest pain visit.

Objective**Vitals**

Vitals Dt/Tm: 11-09-2006 0914 Temp (°F): 97.5 Pulse: 76 Respiration: 16

Blood Pressure: 143/76 Wgt: 171 Hgt: " Provider: BREE, RN , LORI

Notes:

Other

Name: 7362

Provider: BREE, RN , LORI

Other Dt/Tm: 11-09-2006 0906

Notes:

PHYSICIAN'S PROGRESS NOTES

CDC #: J20913

Name(L.F.M.S): SIMS, DERRICK

EXHIBIT (B 4)

B H

CHRONIC CARE VISIT

List of chronic diseases: (1) CHRNC HPT C WO HPAT C; (2)HEPATITIS C ; (3)

History**Current Medications:****RN Signature:** MPIMSES

ALBUTEROL SULF HFA 90 MCG INH 2 PUFF, DEEP SEA 0.65% NOSE SPRAY 2 SPRAY, DOVE SOAP BAR 1 BAR, EUCERIN CREME 1 CREAM, TOPAMAX 25MG TABLET 25 MG, TOPAMAX 25MG TABLET 50 MG

• Complaints/Problems:

Asthma: no acute attacks or ER visits; uses Albuterol inhaler 1-2 times a week;
 maybe 1 or 2 times a month will awaken with wheezes if "they are burning outside"; inhaled steroids makes his headaches worse!

AR: no complaints; does not see any difference with use of Singulair

Migraine H/A: 3-4 per month but has other daily headaches; Topamax is helpful;
 Voltaren was not helpful for pain or arthritis aches

CCP compliance: (e.g. diet, exercise, medications):

Takes meds UD
 Exercises 5 days a week x 90 minutes

HEENT/Neck: wearing glasses; otherwise WNL**Rectal:** deferred**Heart:** RR without murmur or gallop**Neurological:** no gross motor or sensory abn**Lungs:** clear without wheezes/rales/rhonchi**Other:** (Specify)**Abdomen:** soft with no masses or tenderness**Extremities/Pulses:** no c. c. or edema

Assessment: Diagnosis	Degree of Control			
	G	F	P	NA
1. ASTHMA	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. EARS, NOSE, & THROAT DISEASE	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. PAIN/HEADACHE SYNDROME	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Clinical Status			
I	S	W	NA
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

PLAN:**Medications:**

ALBUTEROL SULF HFA 90 MCG INH 2 PUFF, TOPAMAX 25MG TABLET 25 MG, TOPAMAX 25MG TABLET 50 MG

Medications: TB**Education Provided:** Nutritio

Exercis

Lifestyle change

Interval to next visit: 90 Day

Provider Signature MPIMSLMR. ROWE, MD. LINDA

Date 03-05-2007

OUTPATIENT INTERDISCIPLINARY PROGRESS NOTES

CDC NUMBER, NAME(LAST, FIRST, MI), INSTITUTION

J20913, SIMS, DERRICK, .C-Facility

CDC 7230 98.89) REV 07/00
STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS

CHRONIC CARE VISIT

EXHIBIT (B 5.)

B T
5

Subjective

Entry Dt/Tm: 07-02-2007 1331 Entered By: MPIMSLMR , ROWE, MD

Updated Dt/Tm: 07-02-2007 1340 Updated By: MPIMSLMR , ROWE, MD

Pt claims to have had some bleeding around the cuticles of the 2nd and 3rd toes of L foot; no pus or pain; noticed it when he took his socks off
 RN did not see and I do not see any evidence of this.

He also wants a CBC and to be checked for FM as it runs in his family.

Pt also had PFTs done 6-14-07 which showed severe obstruction--using Flovent only once a day instead of BID and using Albuterol 2-3 times a week.

Also asking for elbow splints recommended by Neuro to protect his ulnar nerves.

Objective**Vitals**

Vitals Dt/Tm: 07-02-2007 0905 Temp (°F): 96.6 Pulse: 78 Respiration: 16

Blood Pressure: 112/62 Wgt: 181 Hgt: Provider: STONE, LVN , REBECCA

Notes: PAIN 0--STATED

Other

Name: sick call/FU PFT's

Provider: ROWE, MD , LINDA

Other Dt/Tm: 07-02-2007 1338

Notes: VSS in NAD

L foot with no sign of infected or IGTN; + onychomycosis; no bleeding from any cuticle or toe; no swelling and no discharges at this time
 PFT, 6-14-07- severe obstruction

PHYSICIAN'S PROGRESS NOTES

CDC #: J20913

Name(L,F,M,S): SIMS, DERRICK

CDC 7230

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS

EXHIBIT B 6

B C

Subjective

Entry Dt/Tm: 08-28-2007 1440 Entered By: MPIMSLMR , ROWE, MD

Updated Dt/Tm: 08-28-2007 1444 Updated By: MPIMSLMR , ROWE, MD

Pt with recurrent epistaxis from L nostril--usually lasts 5-10 minutes; then trickles down back of throat and is over.
 also with chronic complaints of dry skin and breaking out from state soap.
 Also c/o R sided chest pains and sob related to asthma??--uses Albuterol daily
 but not using Flovent BID as told-SEE CC visit from today.

Objective**Other**

Name: sick call

Provider: ROWE, MD , LINDA

Other Dt/Tm: 08-28-2007 1444

Notes: VSS in NAD

Skin without significant rash except for slight redness where cuffs are
 Nose with active bleeding; + boggy turbinates with some scabbing in L nostril
 See PE from HCV/Asthma visit today

PHYSICIAN'S PROGRESS NOTES

CDC 7230

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS

CDC #: J20913

Name(L,F,M,S): SIMS, DERRICK

COPY

Assessment**Medical Diagnosis**

Code: 493 Description: ASTHMA
 Axis: GAF: Status: COMPLETE Provider: ROWE, MD, LINDA
 Diagnosis Dt/Tm: 10-05-2005 1248 Resolve Dt/Tm: 07-18-2006 1402 Priority:
 Notes:

Code: 493 Description: ASTHMA
 Axis: GAF: Status: COMPLETE Provider: ROWE, MD, LINDA
 Diagnosis Dt/Tm: 10-13-2006 1205 Resolve Dt/Tm: 05-01-2007 1127 Priority:
 Notes:

Code: 692.9 Description: DERMATOLOGICAL DISORDER
 Axis: GAF: Status: COMPLETE Provider: RISENHOOVER, FNP, SUE
 Diagnosis Dt/Tm: 02-09-2007 1005 Resolve Dt/Tm: 05-01-2007 1127 Priority: 001
 Notes: skin irritation aveeno soap, jock itch

Code: 9991 Description: EARS, NOSE, & THROAT DISEASE
 Axis: GAF: Status: CURRENT Provider: ROWE, MD, LINDA
 Diagnosis Dt/Tm: 08-28-2007 1446 Resolve Dt/Tm: 00-00-0000 0000 Priority:
 Notes: recurrent epistaxis and AR

Code: 787 Description: GI DISORDER NOT GERD
 Axis: GAF: Status: COMPLETE Provider: RISENHOOVER, FNP, SUE
 Diagnosis Dt/Tm: 02-09-2007 1006 Resolve Dt/Tm: 05-01-2007 1127 Priority: 002
 Notes:

PHYSICIAN'S PROGRESS NOTES

CDC 7230

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS

CDC #: J20913

Name(L,F,M,S): SIMS, DERRICK

COPY

Assessment**Medical Diagnosis**

Code: 781 **Description:** NEUROLOGICAL DISORDER NOT SEIZURE
Axis: **GAF:** **Status:** COMPLETE **Provider:** ROWE, MD, LINDA
Diagnosis Dt/Tm: 04-18-2007 1516 **Resolve Dt/Tm:** 05-01-2007 1127 **Priority:**
Notes:

Code: 733.90 **Description:** ORTHOPEDIC DISORDER
Axis: **GAF:** **Status:** COMPLETE **Provider:** ROWE, MD, LINDA
Diagnosis Dt/Tm: 11-13-2006 1050 **Resolve Dt/Tm:** 05-01-2007 1127 **Priority:**
Notes:

Code: 9993 **Description:** PAIN/HEADACHE SYNDROME
Axis: **GAF:** **Status:** COMPLETE **Provider:** ROWE, MD, LINDA
Diagnosis Dt/Tm: 03-27-2007 1449 **Resolve Dt/Tm:** 05-01-2007 1127 **Priority:**
Notes:

Code: 999999 **Description:** RISK FOR INJURY R/T REFUSAL OF TX
Axis: **GAF:** **Status:** COMPLETE **Provider:** POMERLEAU, HELEN
Diagnosis Dt/Tm: 07-27-2005 1100 **Resolve Dt/Tm:** 07-18-2006 1403 **Priority:**
Notes:

Code: 999999 **Description:** ASTHMA MED DQT TO CM
Axis: **GAF:** **Status:** COMPLETE **Provider:** ALLEN, EVERETT
Diagnosis Dt/Tm: 08-03-2005 0926 **Resolve Dt/Tm:** 07-18-2006 1403 **Priority:**
Notes:

PHYSICIAN'S PROGRESS NOTES

CDC 7230

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS

CDC #: J20913

Name(L,F,M,S): SIMS, DERRICK

Assessment**Medical Diagnosis**

Code: 999999 **Description:** HEALTH CARE MAINTENANCE
Axis: **GAF:** **Status:** COMPLETE **Provider:** POMERLEAU, HELEN
Diagnosis Dt/Tm: 08-22-2005 1251 **Resolve Dt/Tm:** 07-18-2006 1403 **Priority:**
Notes:

Code: 070.54 **Description:** CHRNC HPT C WO HPAT COMA
Axis: **GAF:** **Status:** COMPLETE **Provider:** ROWE, MD, LINDA
Diagnosis Dt/Tm: 10-05-2005 1249 **Resolve Dt/Tm:** 07-18-2006 1402 **Priority:**
Notes:

Code: 346 **Description:** MIGRAINE
Axis: **GAF:** **Status:** COMPLETE **Provider:** ROWE, MD, LINDA
Diagnosis Dt/Tm: 10-05-2005 1249 **Resolve Dt/Tm:** 07-18-2006 1402 **Priority:**
Notes:

Code: 999999 **Description:** ALT IN COMFORT
Axis: **GAF:** **Status:** COMPLETE **Provider:** BREE, RN, LORI
Diagnosis Dt/Tm: 11-09-2005 1113 **Resolve Dt/Tm:** 07-18-2006 1402 **Priority:**
Notes:

Code: 999999 **Description:** WEIGHT LOSS, ? ETIOLOGY
Axis: **GAF:** **Status:** COMPLETE **Provider:** ROWE, MD, LINDA
Diagnosis Dt/Tm: 11-21-2005 1120 **Resolve Dt/Tm:** 07-18-2006 1407 **Priority:**
Notes:

PHYSICIAN'S PROGRESS NOTES

CDC 7230

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS

CDC #: J20913

Name(L,F,M,S): SIMS, DERRICK

COPY

Assessment**Medical Diagnosis**

Code: 787.02 **Description:** NAUSEA ALONE
Axis: **GAF:** **Status:** COMPLETE **Provider:** ROWE, MD, LINDA
Diagnosis Dt/Tm: 11-21-2005 1121 **Resolve Dt/Tm:** 07-18-2006 1407 **Priority:**
Notes:

Code: 789.09 **Description:** ABDOMINAL PAIN OTH SPCF ST
Axis: **GAF:** **Status:** COMPLETE **Provider:** ROWE, MD, LINDA
Diagnosis Dt/Tm: 11-21-2005 1121 **Resolve Dt/Tm:** 07-18-2006 1407 **Priority:**
Notes:

Code: 530.11 **Description:** REFLUX ESOPHAGITIS
Axis: **GAF:** **Status:** COMPLETE **Provider:** ROWE, MD, LINDA
Diagnosis Dt/Tm: 12-21-2005 1340 **Resolve Dt/Tm:** 05-01-2007 1127 **Priority:**
Notes:

Code: 999999 **Description:** ALT IN COMFORT
Axis: **GAF:** **Status:** COMPLETE **Provider:** BREE, RN, LORI
Diagnosis Dt/Tm: 01-10-2006 0931 **Resolve Dt/Tm:** 07-18-2006 1407 **Priority:**
Notes:

Code: 724.9 **Description:** BACK DISORDER NOS
Axis: **GAF:** **Status:** COMPLETE **Provider:** ROWE, MD, LINDA
Diagnosis Dt/Tm: 01-28-2006 1524 **Resolve Dt/Tm:** 07-18-2006 1407 **Priority:**
Notes:

COPY

PHYSICIAN'S PROGRESS NOTES

CDC 7230

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS

CDC #: J20913

Name(L,F,M,S): SIMS, DERRICK

Assessment

Medical Diagnosis

Code: 999999 Description: EPITAXIS
 Axis: GAF: Status: COMPLETE Provider: EMAMI, MD, SHAHRAM
 Diagnosis Dt/Tm: 04-18-2006 1015 Resolve Dt/Tm: 03-27-2007 1448 Priority:
 Notes:

Code: 346 Description: MIGRAINE
 Axis: GAF: Status: COMPLETE Provider: ROWE, MD, LINDA
 Diagnosis Dt/Tm: 07-14-2006 1432 Resolve Dt/Tm: 03-27-2007 1448 Priority:
 Notes:

Code: 999999 Description: NURSING DIAGNOSIS
 Axis: GAF: Status: COMPLETE Provider: BREE, RN, LORI
 Diagnosis Dt/Tm: 08-14-2006 1017 Resolve Dt/Tm: 05-01-2007 1127 Priority:
 Notes:

Code: V68.1 Description: ISSUE OF REPEAT PRESCRIPTIONS
 Axis: GAF: Status: COMPLETE Provider: BREE, RN, LORI
 Diagnosis Dt/Tm: 08-14-2006 1018 Resolve Dt/Tm: 10-13-2006 1205 Priority:
 Notes:

Plan

Provider: ROWE, MD , LINDA	Plan Dt/Tm: 08-28-2007 1448	Completed By:
Completed Dt/Tm:	Patient Education: N	Phone Order Status: NONE
Entry Dt/Tm: 08-28-2007 1448	Entered By: MPIMSLMR, ROWE, MD	

Saline nose sprays
 RTC if gets nose bleeds that will not stop
 No creams are on formulary
 Told must buy lotions/creams/soaps from the canteen

PHYSICIAN'S PROGRESS NOTES

CDC #: J20913

Name(L,F,M,S): SIMS, DERRICK

CDC 7230

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS

Order**Medications**

Start Dt/Tm	Medication	Strength	Rte	Freq	Duration	Provider
08-28-2007 1449	DEEP SEA 0.65% NOSE SPRAY	2 SPRAY	NS	PRN	90	ROWE, MD, LINDA

PHYSICIAN'S PROGRESS NOTES

CDC #: J20913

Name(L,F,M,S): SIMS, DERRICK

CDC 7230

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS

(EXHIBIT B7)

B7

List of chronic diseases: (1) CHRNC HPT C WO HPAT CI ; (2)HEPATITIS C ; (3)

History**Current Medications:**

RN Signature:

FLOVENT HFA 110 MCG INHALER 2 PUFF, VENTOLIN HFA 90 MCG INHALER 2 PUFF

Complaints/Problems:

Asthma/AR: no acute attack or ER visits; uses albuterol daily??- not using more than 1 canister of albuterol in 6 months; did not qualify for a challenge test for asthma d/t having abn PFTs in 6/07 which were read as "severe obstruction". He put in a 1824 and was denied transfer to another facility based on Asthma by Dr Sayre in 6/07--I discussed case again with Dr Sayre and he will review his PFTs---we are concerned about the pt not complying with instructions for use of inhaled steroids, etc

Hx of Migraine: on no meds and pt is not complaining or asking for any new RX

CCP compliance: (e.g. diet, exercise, medications):

Pt not using Flovent but once a day; "I do not like taking steroids"; uses Albuterol daily because it makes me feel better

HEENT/Neck: unremark except boggy turbinates

Rectal: deferred

Heart: RR with no murmur or gallop**Neurological:** no gross motor or sensory abn**Lungs:** clear with no wheezes/rales/rhonchi**Other:** (Specify)**Abdomen:** soft with no masses or tenderness**Extremities/Pulses:** no c, c, or edema

Assessment: Diagnosis	Degree of Control			
	G	F	P	NA
1. ASTHMA	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. EARS, NOSE, & THROAT DISEASE	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Clinical Status			
I	S	W	NA
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

PLAN:**Medications:**

FLOVENT HFA 110 MCG INHALER 2 PUFF VENTOLIN HFA 90 MCG INHALER 2 PUFF

Medications: TBD**Education Provided:** Nutrition

Exercise

Lifestyle changes

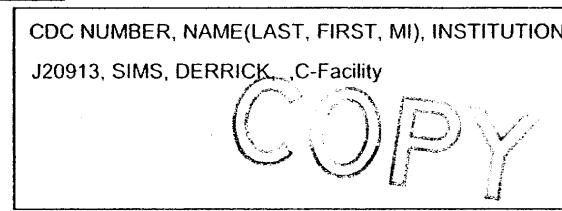
Provider Signature MPIMSLMR, ROWE, MD, LINDA**Date** 08-28-2007

CDC NUMBER, NAME(LAST, FIRST, MI), INSTITUTION

J20913, SIMS, DERRICK, C-Facility

CDC 7230 98/89) REV 07/00
STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS

CHRONIC CARE VISIT

CHRONIC CARE VISIT

Interval to next visit: 90 Days

COMMENTS:

Entry By: ROWE, MD, LINDA

Entry Dt/Tm: 08-28-2007 1428

Next CC appt in 90 days

Stressed need to use inhaled steroids for maintenance BID and cut back on daily use of Albuterol as he needs to make his inhaler last for 6 months

Provider Signature MPIMSLMR, ROWE, MD, LINDA

Date 08-28-2007

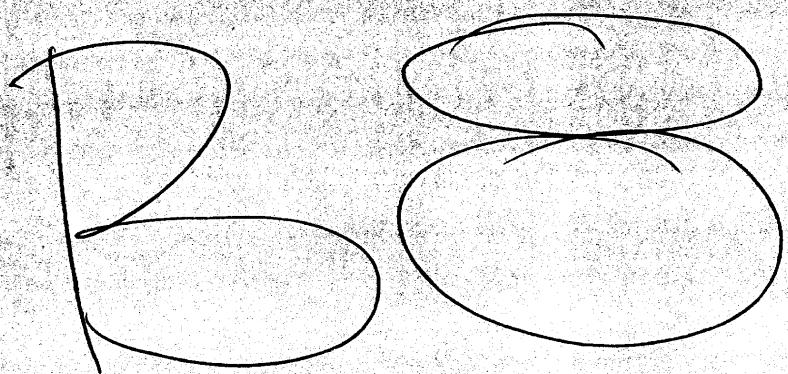
**OUTPATIENT INTERDISCIPLINARY
PROGRESS NOTES**CDC 7230 98/89) REV 07/00
STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS

CHRONIC CARE VISITCDC NUMBER, NAME(LAST, FIRST, MI), INSTITUTION
J20913, SIMS, DERRICK, ,C-Facility

COPY

EXHIBIT (B 8)



Subjective

Entry Dt/Tm: 10-10-2007 1028

Entered By: MPIMSLCB , BREE, RN

Updated Dt/Tm: 10-10-2007 1033

Updated By: MPIMSLCB , BREE, RN

Inmate submits 7362 stating that on 10-5-07 he had a severe headache that was not controlled. He states the next day he could tell they were doing controlled outside turning as he had an asthma attack. He states he had no breath to call for the use of his inhalers and he just stayed calm and the chest tightness and wheezing passed and he was ok then the next day he suffered from nose bleeds off and on during the day. He was scheduled to see the doctor yesterday when this sick call was received but he is told he would only be seen for the issue at hand. He denies allergies and states he takes only the flow vent and albuterol inhalers.

Objective**Other**

Name: 7362

Provider: BREE, RN, LORI

Other Dt/Tm: 10-10-2007 1033

Notes: Inmate is seen at cell front with no difficulty breathing noted his peak flow upon seeing the doctor was normal. It appears that this episode passed without intervention and inmate has no ill effects.

Note. I/M. PLACE 7362 ON 10/7/07 AND SEEN ON
10/9/07 BY RN. SEE (7362) BEFORE THIS PG--

PHYSICIAN'S PROGRESS NOTES

CDC #: J20913

Name(L,F,M,S): SIMS, DERRICK

HEALTH CARE SERVICES REQUEST FORM (PBSP 7-1)

PART I: TO BE COMPLETED BY THE PATIENT

If you believe this to be an urgent/emergent health care need, contact the correctional officer on duty **D5-112**

REQUEST FOR: MEDICAL PSYCHIATRY MENTAL HEALTH DENTAL PHARMACY

NAME: **Sims**

CDC #: **J-20913**

HOUSING: **c-2-114**

PHARMACY REFILL #

Pharmacy, place labels on back of form

THE REASON YOU WANT HEALTH CARE. (DESCRIBE YOUR HEALTH PROBLEM AND HOW LONG YOU HAVE HAD THE PROBLEM) **All weekend from Fri. 10/5/07. I had a SEVERE HEADACHE**

THEN on Sat 10/6/07 I had headache all day & lit bit of nosebleed at night 10/6/07 at approx. 8:48 pm the smoke from control burning came in & same time after that triggered an asthma episode... Now Sun. 10/7/07 I've nosebleeds on & off

PATIENT'S SIGNATURE:

DATE: **10/7/07**

PART II: TO BE COMPLETED BY THE TRIAGE RN/RDA/MTA

Date & Time Received: **10/9/07**

Received by: **J**

Reviewed by RN/RDA, Date: **10/9/07**

Time: **0700**

Signature: **J**

Triage Designation: **(P)**

S:

O:	T:	P:	R:	BP:	WEIGHT:
S - Asthma -	congestion	not used inhaler			
A - MCA					
PDI -	Fluvent inhaler				

A:

P:

*Stoical calm +
stuffed green &
x white w/ a b
x white w/ a b
(green to blue)*

Signature/Date/Time:

APPOINTMENT
SCHEDULED AS:

EMERGENCY
(immediately)

URGENT
(within 24 hours)

ROUTINE
(within 14 calendar days)

REFERRED TO PCP:

DATE OF APPOINTMENT:

10/9/07 **10/19/07**

Print/Stamp Name

Signature/Title

Date & Time Completed

COPAYMENT INFORMATION – TO BE FILLED OUT BY DEPARTMENTAL STAFF

- Visit was for an emergency
- Visit was for diagnosis or treatment of a communicable disease condition (See Title 17, Chapter 4, Subchapter 1, Section 2500 CCR)
- Visit was for mental health services
- Visit was a follow-up requested by the clinician.
- Visit was for State mandated evaluation or treatment (e.g., Annual TB tests)
- Visit was for reception screening and evaluation only
- Visit is NOT exempt from co-payment. Send PINK copy to Inmate Trust Office.

DISTRIBUTION:

ORIGINAL-Unit Health Record
PBSP 7362 (Rev 7/03)

YELLOW - Pharmacy

PINK - Inmate Trust

GOLDENROD - Inmate/Patient

Name: PELICAN BAY S.H.U.	CDC#: UNIT C-2	Housing: PELICAN BAY S.H.U.	Institution: PELICAN BAY S.H.U.
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EXHIBIT B9

B9

EMERGENCY CARE FLOW SHEET

CALIFORNIA DEPARTMENT OF CORRECTIONS

PBSP 7206

ATE 01-23-2008

IN OUT

1228

1305

INMATE	NAME LAST SIMS	FIRST DERRICK	CDC NUMBER J20913	HOUSING D05U211L	DOB 07-10-1974
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TIME OF INCIDENT 1150	LOCATION OF INCIDENT D Shu	MODE OF ARRIVAL ambulatory
--------------------------	-------------------------------	-------------------------------

STAFF	NAME LAST FIRST	OCCUPATION	SEX	AGE	DOB
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CHIEF COMPLAINT "I had trouble breathing & my chest felt tight."	TB CODE 32	DATE OF LAST TETANUS unknown
---	---------------	---------------------------------

MECHANISM OF INJURY	SKIN COLOR	SKIN TEMP	SKIN MOISTURE	CAPILLARY REFILL	GLASCOW COMA SCALE			
<input type="checkbox"/> STABBING <input type="checkbox"/> PHYSICAL ALTERCATION <input type="checkbox"/> GUNSHOT WOUND <input type="checkbox"/> BURN <input type="checkbox"/> SPORTS INJURY <input type="checkbox"/> ON THE JOB INJURY <input type="checkbox"/> OTHER	<input checked="" type="checkbox"/> NORMAL <input type="checkbox"/> PALE <input type="checkbox"/> ASHEN <input type="checkbox"/> CYANOTIC <input type="checkbox"/> FLUSHED	<input type="checkbox"/> HOT <input checked="" type="checkbox"/> WARM <input type="checkbox"/> COOL <input type="checkbox"/> COLD	<input checked="" type="checkbox"/> NORMAL <input type="checkbox"/> DRY <input type="checkbox"/> MOIST <input type="checkbox"/> PROFUSE	<input checked="" type="checkbox"/> < 2 SECONDS <input type="checkbox"/> > 2 SECONDS <input type="checkbox"/> NONE	TIME 1252	EYE OPENING RESPONSE 4	BEST VERBAL RESPONSE 5	BEST MOTOR RESPONSE 6

PULM SOUNDS		RESP CHARACTER		EVIDENCE OF TRAUMA	
RT	LT	<input type="checkbox"/> LABORED <input checked="" type="checkbox"/> UNLABORED <input checked="" type="checkbox"/> PAINFUL <input type="checkbox"/> SHALLOW <input checked="" type="checkbox"/> DEEP <input type="checkbox"/> RETRACTION <input type="checkbox"/> NASAL FLARING		<input type="checkbox"/> CHEST <input type="checkbox"/> ABDOMEN <input type="checkbox"/> G/U <input type="checkbox"/> PELVIS <input type="checkbox"/> BACK SPINE	<input type="checkbox"/> HEAD <input type="checkbox"/> NECK <input type="checkbox"/> EXTREMITIES <input type="checkbox"/> OTHER

TIME	TEMP	PULSE	RESP	BP	SaO ₂
01-23-2008 1251	98	85	16	152/95	99
00-00-0000 0000				/	
00-00-0000 0000				/	
00-00-0000 0000				/	

TIME	NAME	SITE	GAUGE	RATE
00-00-0000 0000				
00-00-0000 0000				

TIME	ROUTE	RATE	SaO ₂

TIME PUPIL RESPONSE PUPIL SIZE
R L R L
1252 B B 3 3

KEY C=CLOSE B=BRISK SL=SLUGGISH F=FIXED
3 4 5 6 7 8

CURRENT MEDICATIONS

ALBUTEROL SULF HFA 90 MCG INH 2 PUFF, ALLER-CHLOR 4 MG TABLET 4 MG, DEEP SEA 0.65% NOSE SPRAY 2 SPRAY, FLOVENT HFA 110 MCG INHALER 2 PUFF

MEDICATION ALLERGIES

COPY

SIGNATURES	PATIENT DISPOSITION	PATIENT CONDITION ON DISCHARGE
RN/MTA/MD RN/MTA/MD RN/MTA/MD RN/MTA/MD	RTC MODE OF DEPARTURE: Ambulance	TIME Stable c 1305
SUPERVISOR REVIEW <i>K Fort Shurt</i>		

SOAP NOTATIONS

SUBJECTIVE (PATIENT'S STATEMENTS, HISTORY)

DATE/TIME	PROVIDER
01-23-2008 1300	MPIMSLJG, GIVANT, RN

S Respiratory distress

O A&O Hispanic male ambulated into the UTA with no apparent distress. Breathing did not appear to be labored. Pt appeared in no acute distress. Stated he smelled smoke outside & started wheezing. & feeling short of breath.

A Well nourished 33 yr old Hispanic male admitted to UTA for Asthma Attack secondary to inhaling smoke in air. C/o pain at 3/10 rt upper chest with inhalation but states it is getting better. NKDA, Uses albuterol, nose spray & flovent inhaler as carry med plus aller-chlor tab for allergies. Used albuterol before he went outside prior to episode of SOB. Denies problems with appetite. Ate breakfast. No problems with elimination. Pain in rt chest is subsiding but described it as dull with inhalation. Otherwise pt has no pain.

P Instruct pt to let medical know if problem should reoccur verbalized compliance. RTC. Will F/U with provider in 5 days. L.Givant RN

ASSESSMENT (NURSING DIAGNOSIS)

DATE/TIME	DESCRIPTION	NOTES

PLAN (PREDICTION, FOLLOWUP, MD ORDERS, ETC.)

DATE/TIME	DESCRIPTION	NOTES

COPY

Notes:

01-23-2008 1258 S: Pt. is an asthmatic (mild intermittent) who walked out into the yard, smelled smoke and had problems breathing. He complained of shortness of breath with minimal wheezing, he used his albuterol inhaler and was brought into the U.T.A.

O: Vitals normal with a pulse of 85, respiration rate of 16, and O₂sat 99% on room air. Gen.: talking in complete sentences and in no distress. Peak Flow: no done as patient is obviously not in any distress. HEENT: tm's normal, nares benign, oropharynx without erythema or post nasal drip. Neck: no adenopathy. Lungs: moving good amount of air without any detectable wheezing or rhonchi

A: Status post asthma exacerbation, resolved by the time the patient reached the U.T.A. with one dose of his albuterol inhaler

P: Pt. may return to his housing to follow up with his PCP in 5d, sooner should he experience shortness of breath or wheezing. He expressed understanding and agrees with the above plan.

Claire P. Williams, MD

COPY

Visit Start Dt/Tm: 01-23-2008 1205 Encounter Type: SICK CALL

Visit Reason: 7362 NURSING EVALUATION

Subjective

Entry Dt/Tm: 01-23-2008 1238

Entered By: MPIMSKAV, VAIL, RN

Updated Dt/Tm: 01-23-2008 1240

Updated By: MPIMSKAV, VAIL, RN

"I have tightness in my chest. I was out on the yard and I smelled smoke and now I am having a hard time breathing. I used my inhaler already. I can't take a deep breath without my chest hurting."

Objective**Vitals**

Vitals Dt/Tm: 01-23-2008 1240 Temp (°F): 97.7 Pulse: 106 Respiration: 18

Blood Pressure: 160/84 Wgt: 183 Hgt: " Provider: VAIL, RN, KAY

Notes:

Other

Name: Chest pain

Provider: VAIL, RN, KAY

Other Dt/Tm: 01-23-2008 1241

Notes: Seen in clinic. A&OX4, amb with steady erect gait, no guarding. Skin warm and dry. Color pink. In NAD. Unable to take a deep breath - unable to auscultate lung sounds. T/C to CTC transport to CTC for eval.

PHYSICIAN'S PROGRESS NOTES

CDC #: J20913

Name(L,F,M,S): SIMS, DERRICK

CDC 7230

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS

COPY

Assessment**Medical Diagnosis**

Code: 493 Description: ASTHMA
 Axis: GAF: Status: COMPLETE Provider: ROWE, MD, LINDA
 Diagnosis Dt/Tm: 10-05-2005 1248 Resolve Dt/Tm: 07-18-2006 1402 Priority:
 Notes:

Code: 493 Description: ASTHMA
 Axis: GAF: Status: COMPLETE Provider: ROWE, MD, LINDA
 Diagnosis Dt/Tm: 10-13-2006 1205 Resolve Dt/Tm: 05-01-2007 1127 Priority:
 Notes:

Code: 493 Description: ASTHMA
 Axis: GAF: Status: CURRENT Provider: ROWE, MD, LINDA
 Diagnosis Dt/Tm: 10-19-2007 1531 Resolve Dt/Tm: 00-00-0000 0000 Priority:
 Notes:

Code: 692.9 Description: DERMATOLOGICAL DISORDER
 Axis: GAF: Status: COMPLETE Provider: RISENHOOVER, FNP, SUE
 Diagnosis Dt/Tm: 02-09-2007 1005 Resolve Dt/Tm: 05-01-2007 1127 Priority: 001
 Notes: skin irritation aveeno soap, jock itch

Code: 9991 Description: EARS, NOSE, & THROAT DISEASE
 Axis: GAF: Status: CURRENT Provider: ROWE, MD, LINDA
 Diagnosis Dt/Tm: 08-28-2007 1446 Resolve Dt/Tm: 00-00-0000 0000 Priority:
 Notes: recurrent epistaxis and AR

PHYSICIAN'S PROGRESS NOTES

CDC #: J20913

Name(L,F,M,S): SIMS, DERRICK

CDC 7230

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS

COPY

Assessment**Medical Diagnosis**

Code: 787 Description: GI DISORDER NOT GERD
 Axis: GAF: Status: COMPLETE Provider: RISENHOOVER, FNP, SUE
 Diagnosis Dt/Tm: 02-09-2007 1006 Resolve Dt/Tm: 05-01-2007 1127 Priority: 002
 Notes:

Code: 781 Description: NEUROLOGICAL DISORDER NOT SEIZURE
 Axis: GAF: Status: COMPLETE Provider: ROWE, MD, LINDA
 Diagnosis Dt/Tm: 04-18-2007 1516 Resolve Dt/Tm: 05-01-2007 1127 Priority:
 Notes:

Code: 9992 Description: NURSING DIAGNOSIS
 Axis: GAF: Status: CURRENT Provider: VAIL, RN, KAY
 Diagnosis Dt/Tm: 12-14-2007 0847 Resolve Dt/Tm: 00-00-0000 0000 Priority:
 Notes:

Code: 733.90 Description: ORTHOPEDIC DISORDER
 Axis: GAF: Status: COMPLETE Provider: ROWE, MD, LINDA
 Diagnosis Dt/Tm: 11-13-2006 1050 Resolve Dt/Tm: 05-01-2007 1127 Priority:
 Notes:

Code: 733.90 Description: ORTHOPEDIC DISORDER
 Axis: GAF: Status: CURRENT Provider: ROWE, MD, LINDA
 Diagnosis Dt/Tm: 10-09-2007 1152 Resolve Dt/Tm: 00-00-0000 0000 Priority:
 Notes: R elbow > L elbow pain

COPY

PHYSICIAN'S PROGRESS NOTES

CDC #: J20913

Name(L,F,M,S): SIMS, DERRICK

Assessment**Medical Diagnosis**

Code: 9993 **Description:** PAIN/HEADACHE SYNDROME
Axis: **GAF:** **Status:** COMPLETE **Provider:** ROWE, MD, LINDA
Diagnosis Dt/Tm: 03-27-2007 1449 **Resolve Dt/Tm:** 05-01-2007 1127 **Priority:**
Notes:

Code: 999999 **Description:** RISK FOR INJURY R/T REFUSAL OF TX
Axis: **GAF:** **Status:** COMPLETE **Provider:** POMERLEAU,, HELEN
Diagnosis Dt/Tm: 07-27-2005 1100 **Resolve Dt/Tm:** 07-18-2006 1403 **Priority:**
Notes:

Code: 999999 **Description:** ASTHMA MED DOT TO CM
Axis: **GAF:** **Status:** COMPLETE **Provider:** ALLEN,, EVERETT
Diagnosis Dt/Tm: 08-03-2005 0926 **Resolve Dt/Tm:** 07-18-2006 1403 **Priority:**
Notes:

Code: 999999 **Description:** HEALTH CARE MAINTENANCE
Axis: **GAF:** **Status:** COMPLETE **Provider:** POMERLEAU,, HELEN
Diagnosis Dt/Tm: 08-22-2005 1251 **Resolve Dt/Tm:** 07-18-2006 1403 **Priority:**
Notes:

Code: 070.54 **Description:** CHRNC HPT C WO HPAT COMA
Axis: **GAF:** **Status:** COMPLETE **Provider:** ROWE, MD, LINDA
Diagnosis Dt/Tm: 10-05-2005 1249 **Resolve Dt/Tm:** 07-18-2006 1402 **Priority:**
Notes:

COPY

PHYSICIAN'S PROGRESS NOTES

CDC #: J20913

Name(L,F,M,S): SIMS, DERRICK

CDC 7230

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS

Assessment**Medical Diagnosis**

Code: 346 **Description:** MIGRAINE
Axis: **GAF:** **Status:** COMPLETE **Provider:** ROWE, MD, LINDA
Diagnosis Dt/Tm: 10-05-2005 1249 **Resolve Dt/Tm:** 07-18-2006 1402 **Priority:**
Notes:

Code: 999999 **Description:** ALT IN COMFORT
Axis: **GAF:** **Status:** COMPLETE **Provider:** BREE, RN, LORI
Diagnosis Dt/Tm: 11-09-2005 1113 **Resolve Dt/Tm:** 07-18-2006 1402 **Priority:**
Notes:

Code: 999999 **Description:** WEIGHT LOSS, ? ETIOLOGY
Axis: **GAF:** **Status:** COMPLETE **Provider:** ROWE, MD, LINDA
Diagnosis Dt/Tm: 11-21-2005 1120 **Resolve Dt/Tm:** 07-18-2006 1407 **Priority:**
Notes:

Code: 787.02 **Description:** NAUSEA ALONE
Axis: **GAF:** **Status:** COMPLETE **Provider:** ROWE, MD, LINDA
Diagnosis Dt/Tm: 11-21-2005 1121 **Resolve Dt/Tm:** 07-18-2006 1407 **Priority:**
Notes:

Code: 789.09 **Description:** ABDMNL PAIN OTH SPCF ST
Axis: **GAF:** **Status:** COMPLETE **Provider:** ROWE, MD, LINDA
Diagnosis Dt/Tm: 11-21-2005 1121 **Resolve Dt/Tm:** 07-18-2006 1407 **Priority:**
Notes:

PHYSICIAN'S PROGRESS NOTES

CDC #: J20913

Name(L,F,M,S): SIMS, DERRICK

CDC 7230

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS

COPY

Assessment**Medical Diagnosis**

Code: 530.11 Description: REFLUX ESOPHAGITIS
 Axis: GAF: Status: COMPLETE Provider: ROWE, MD, LINDA
 Diagnosis Dt/Tm: 12-21-2005 1340 Resolve Dt/Tm: 05-01-2007 1127 Priority:
 Notes:

Code: 999999 Description: ALT IN COMFORT
 Axis: GAF: Status: COMPLETE Provider: BREE, RN, LORI
 Diagnosis Dt/Tm: 01-10-2006 0931 Resolve Dt/Tm: 07-18-2006 1407 Priority:
 Notes:

Code: 724.9 Description: BACK DISORDER NOS
 Axis: GAF: Status: COMPLETE Provider: ROWE, MD, LINDA
 Diagnosis Dt/Tm: 01-28-2006 1524 Resolve Dt/Tm: 07-18-2006 1407 Priority:
 Notes:

Code: 999999 Description: EPITAXIS
 Axis: GAF: Status: COMPLETE Provider: EMAMI, MD, SHAHRAM
 Diagnosis Dt/Tm: 04-18-2006 1015 Resolve Dt/Tm: 03-27-2007 1448 Priority:
 Notes:

Code: 346 Description: MIGRAINE
 Axis: GAF: Status: COMPLETE Provider: ROWE, MD, LINDA
 Diagnosis Dt/Tm: 07-14-2006 1432 Resolve Dt/Tm: 03-27-2007 1448 Priority:
 Notes:

PHYSICIAN'S PROGRESS NOTES

CDC #: J20913

Name(L,F,M,S): SIMS, DERRICK

COPY

Assessment

Medical Diagnosis

Code: 999999 Description: NURSING DIAGNOSIS
 Axis: GAF: Status: COMPLETE Provider: BREE, RN, LORI
 Diagnosis Dt/Tm: 08-14-2006 1017 Resolve Dt/Tm: 12-14-2007 0847 Priority:
 Notes:

Code: V68.1 Description: ISSUE OF REPEAT PRESCRIPTIONS
 Axis: GAF: Status: COMPLETE Provider: BREE, RN, LORI
 Diagnosis Dt/Tm: 08-14-2006 1018 Resolve Dt/Tm: 10-13-2006 1205 Priority:
 Notes:

Plan

Provider: VAIL, RN , KAY Plan Dt/Tm: 01-23-2008 1247 Completed By:
 Completed Dt/Tm: Patient Education: N Phone Order Status: NONE
 Entry Dt/Tm: 01-23-2008 1247 Entered By: MPIMSKAV, VAIL, RN

Impaired gas exchange r/t c/o shortness of breath and chest pain

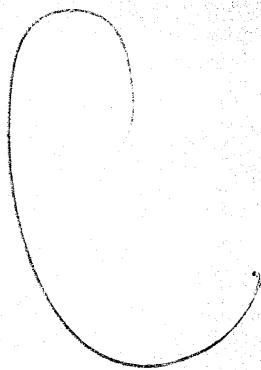
- 1) Send to CTC for eval
- 2) Verbalized understanding and acceptance.

Order

PHYSICIAN'S PROGRESS NOTES

COPY

EXHIBIT (C")





Patient ID: 003
Cardiopulmonary services
Eureka, CA.

CZ-1146

J-209 13

ID: PBSP SF

RUG-22-2007 13:48 From: ID: U/241/SIMD
Name: SIMS, DERRICK
Age: 33 Height(in): 68
Weight(lb): 172 Gender: Male
Race:
Date: 08/22/07
Technician: E. Levin RCP/RRT/BS
Physician: MICHAEL SAYER MD
Diagnosis: R/O ASTHMA

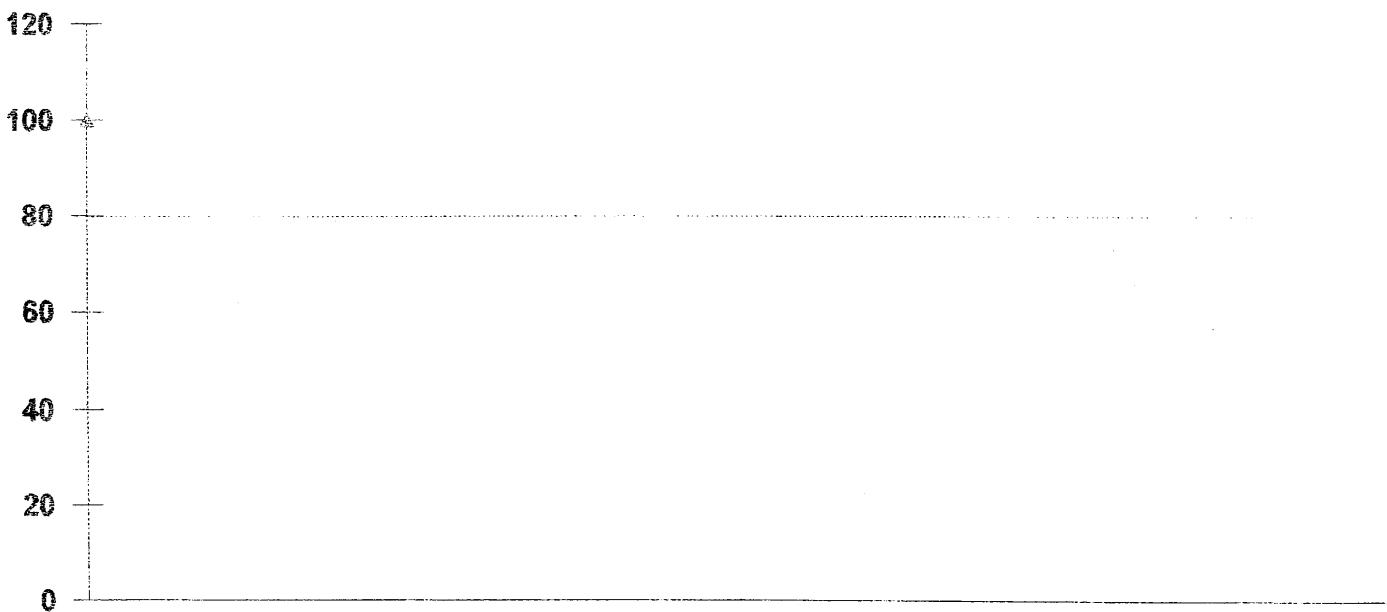
Bronchochallenge Report

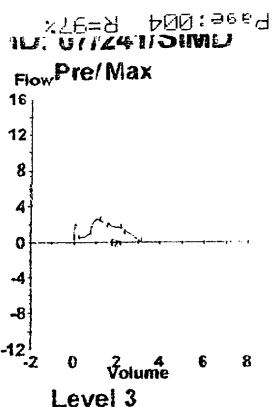
Protocol: ATS_Methacholine(2)

	Ref	Pre	Level 1	Level 2	Level 3	Level 4	Level 5	Level 6	Level 7	Level 8	Level 9	Post
		Meas	Meas	Meas	Meas	Meas	Meas	Meas	Meas	Meas	Meas	Meas
Dose												
FVC Liters	5.00	3.66										
% Ref			73									
% Chg												
Dose												
FEV1 Liters	3.94	2.23										
% Ref			56									
% Chg												
Dose												
FEF25-75%	4.22	1.93										
% Ref			46									
% Chg												
Dose												
PEF L/sec	9.08	3.12										
% Ref			34									
% Chg												

PELICAN BAY S.H.C.
UNIT C-2

PD 20 FEV1:





ID: PBSP SP
Level 1

Name: SIMS, D.L. RICK
Level 2

ALU6-22-2007 13:48 From:

Level 3

Level 4

Level 5

Level 6

Level 7

Level 8

Level 9

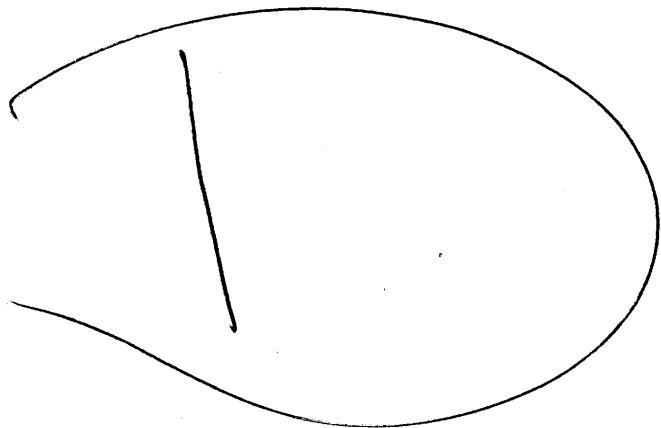
PostMax

Comments: It does not qualify for bronchial provocation test protocol

Interpretation:

EXHIBIT

(1)



PER CCR TITLE 15 SEC. 3450.(2)(C) STATEMENT OF
DISAGREEMENT APPEAL # PBSP-B07-01270- DECLARATION -

1 STATEMENTS OF FACT.

2 ON 8/28/07 I DERRICK SIMS J-20913 C-2-114 PBSP
3 ATTENDED CHRONIC CARE FOR ~~SE~~ ASTHMA WITH DR.
4 LINDA ROWE. DURING CONVERSATION WITH ROWE
5 I WAS ASKED IF I USE THE RX FLOWVENT
6 ~~HOW~~ & HOW OFTEN I EXPLAINED TO LINDA ROWE
7 I USE THE FLOVENT INHALER EVERY NIGHT &
8 MY ALBUTEROL SEVERAL TIMES A WEEK...
9 AT THAT TIME MS. ROWE STATED I NEED TO
10 USE MY RX FLOWVENT EVERYDAY 2 TIMES DAILY
11 I ATTEMPTED TO EXPLAIN I HAVE COMPLICATIONS
12 I AM NOT COMFORTABLE REQUESTING MY INHALER
13 IN THE MORNINGS DUE TO TRYING TO AVOID
14 FRIVOLOUS IGNORANCE & REDUNDANT COMPLAINING OF 2ND WATCH
15 GUARD, BUT DO USE IT ON MON & TUES. 2 TIMES
16 A DAY... AND WAS TOLD "I DON'T CARE... USE 2 TIMES" --
17 ALSO I ATTEMPTED TO EXPLAIN THAT THIS
18 UNIT I'M HOUSED IN IS ADJACENT TO THE
19 BACK DOOR WHERE NUMEROUS TRUCKS TRAFFIC IN &
20 OUT FOR DELIVERY OF WHATEVER. I AM OFTEN
21 SUFFER FROM THE FUMES FROM THE EXHAUST...
22 DUE TO MY ASTHMA, THE EXHAUST GETS
23 TRAPPED INSIDE THE WALLS ON THE YARD WHEN
24 I'M OUTSIDE. I ALSO ATTEMPTED TO COMPLAIN
25 THAT THE FLOWVENT INHALER STATES ON THE

26 Warnings Label QUOTE: "SPECIAL POPULATIONS:

27 SINCE FLUTICASONE PROPIONATE IS PREDOMINANTLY CLERED
28 BY HEPATIC METABOLISM, IMPAIRMENT -- →

1 of liver function may lead to accumulation of
 2 fluticasone propionate in plasma, therefore patients
 3 with hepatic disease should be closely monitored
 4 UNQUOTE... I EXPRESSED MY CONCERNs FOR THAT
 5 warning & was told its a very low dose not
 6 to worry. (1) why would the warning label state
 7 that if its low dosage? (2) Linda ROWE contradicts
 8 herself. ON ONE occassion I REQUESTED Lamisil
 9 pills for TOENAIL FUNGUS & WAS told "No"
 10 BECAUSE OF lEP.C. & MY LIVER. ALSO AT
 11 CONSULTATION ON 6/4/07 Linda told ME MY
 12 ASTHMA is SEVERE & OUT OF CONTROL, ALSO
 13 AFTER pft. SHE AGAIN STATED THE SAME
 14 ON ANOTHER DATE, AFTER I COMPLAINED OF 3.
 15 ASTHMA MINER ASTHMATIC EPISODES IN THE MIDDLE OF
 16 THE NIGHT... ALSO PRIOR TO THE ABOVE Linda
 17 told ME I WAS LIMITED TO THE ASTHMA MEDS
 18 DUE TO MY LIVER PROBLEM... THEN ON 8/28/07
 19 SHE SPOKE TO MR. MC.SAYRE WHO TOLD HER OF
 20 MY FILED(1824) AND CHANGED UP STATING "WE HAVE
 21 CONTROL OF YOUR "ASTHMA". BUT ~~TO~~ YET TOLD
 22 ME SHE DID NOT UNDERSTAND WHY MC.SAYRE
 23 TOOK THE ACTIONS TAKEN FOR (1824) #PBSP.B07-01270
 24 THE TEST THAT WAS SCHEDULED BY MC SAYRE
 25 WAS UNCONSTITUTIONAL ACCORDING TO MEDICAL MD
 26 DR. ██████████ OF ST. JOSEPH'S HOSPITAL. ON
 27 8/22/07... END OF STATEMENT...
 28 DATE. 8/28/07 UPON RETURN FROM *Derrick Sims*
 DERRICK SIMS

INMATE/PAROLEE APPEALS SCREENING FORM

NAME: Sams CDC #: J20913 HOUSING: C2114

YOUR APPEAL IS BEING RETURNED FOR THE FOLLOWING REASON(S):

4. In violation of the CCR, Title 15, Sections 3084.2(b), 3084.3(c)(4) & 3084.5(a)(1), you failed and must attach evidence that shows you attempted to get an Informal resolution, prior to the appeal being assigned to the Formal Level(s) of appeal review. If a staff member fails to respond after 10 working days, use the Chain of Command and submit the Appeal to that staff member's supervisor, or unit/area supervisors.

<input type="checkbox"/> Counselor	<input type="checkbox"/> PBSP R&R	<input checked="" type="checkbox"/> Med Clinic	<input type="checkbox"/> Records
<input type="checkbox"/> Unit Officer	<input type="checkbox"/> PSU Property	<input type="checkbox"/> Dental Clinic	<input type="checkbox"/> Inmate Assignments
<input type="checkbox"/> Mail Room	<input type="checkbox"/> PBSP SHU Prop.	<input type="checkbox"/> Psych Office	<input type="checkbox"/> PBSP Trust Office
<input type="checkbox"/> Law Library	<input type="checkbox"/> Food Services	<input type="checkbox"/> Med Records	<input type="checkbox"/> Plant Ops
<input type="checkbox"/> Work Supervisor		<input type="checkbox"/> Other	

5. You have not adequately completed the CDC Form 602, or have not attached the proper documents. Follow instructions and attach the items noted below, send what documents you have, or explain why they are not available per the CCR, Title 15, Section 3084.3(c)(5):

Supporting Documents & Receipts
 GA 22 Request For Interview
 CDC 115 Results With final dispo
 CDC 115 IE/DA information/Report
 CDC 115 Supplemental Reports
 CDC 114-D Lockup Order
 CDC 1030 Confidential Disclosure
 Lab Results Sheet
 CDC 7219 Medical Report
 CDC 128-A _____
 CDC 128-B _____
 CDC 128-G _____
 CDC 629A/629B Assess SHU Term
 CDC 812/A/B Critical/Enemy
 CDC 839/840 Class/Reclass Score
 CDC 958 Restoration Request
 CDC 1819 Correspondence Denial
 Other _____

CDC 1845 Disability Verification
 CDC 1824 Reasonable/Accommodation
 CDC 7362 Health Care Required Co-Pay
 CDC 128-C Medical Chrono
 Cell Search Slip
 Property Inventory Receipt
 CDC 143 Property Transfer Receipt
 Package Inventory Slip
 Proof of Ownership/Value
 More Specific Information
 Trust Statement
 CDC 193 Trust Acct Withdrawal Order
 Legal Status Summary
 Abstract of Judgment (AOJ)
 CDC 1858[PC 148.6/CCR 3391(d)] Info.Advis.
 Emerg. Unwarranted CCR 3084.7(a)(2)(A)
 Failed to Complete Section _____
 Sign & Date Section _____
 CDC Form 602 _____

7. The issue has been resolved, PBSP Appeal Log No. _____ A copy of the Second (Warden's) Level of Appeal review is attached per the CCR, Title 15, Section 3084.2(g)(1)(2)(3).

8. Abuse of the appeal procedure: _____

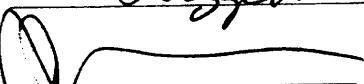
Comments: Refer to Inmate,

this is a sickly call issue
Chronic Care

Suggest you Sent it/ Discuss with Dr Rose.

9-13-07

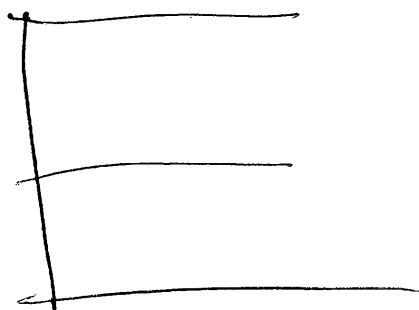
Date


KRAVITZ CC II
Medical Appeals Coordinator

This screening action may not be appealed unless the above reasons are inaccurate and the inmate can provide supporting arguments against the screening decision.

PERMANENT APPEAL ATTACHMENT - DO NOT REMOVE

EXHIBIT E



STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS
CDC-128G (REV.2/69)

NO.: J20913 NAME: SIMS HOUSING: 7A105U

Custody: MAXS CS: 165 LEVEL: IV WG/PG: D1/D Eff: Date: 7/10/02

Type/Release Date: LWOP

TT: LWOP BPT: N/A Assignment/Action Taken: PROGRAM REVIEW IN PERSON/CHANGE YARD
FROM CC EME #2 TO WA/ REAFFIRM SC/ REAFFIRM ICC ACTION 11-21-02

Inmate SIM's case was reviewed by ICC in person this date for the purpose of **PROGRAM REVIEW**. Subject stated that he was in good health and was ready to proceed. Staff Assistant waived per Inmate request and committee's determination that Inmate can communicate and understand committee actions. Subject was originally placed in ASU on 1-11-02 at CCI-IVA for Conspiracy to traffic narcotics. Subject received a 9 month expected SHU Term with a MERD of 8-4-02. Non-shuable offence resulted in a MERD of 9-19-02. Subsequently, Subject was validated as an Associate of the Mexican Mafia Prison Gang, refer to 128B2 dated 10-18-02. ICC action dated 11-21-02 referred the case to the CSR for approval of Indeterminate SHU and transfer to PBSP-SHU ALT COR-SHU. Subsequently, Subject's yard was suspended and subject was placed on Single Cell status pending Committee review based on Confidential Memorandum dated 12-6-02 which indicates Subject is a target for assault.

COMMITTEE DECISION: After reviewing all case factors, committee elects to Raffirm ICC action dated 11-21-02 refing the case to the CSR recommending an Indeterminate Shu term based on Subject's validation as an Associate of the Mexican Mafia Prison Gang. Additionally request transfer to PBSP-SHU/COR-SHU. Exercise yard categories were discussed and explained with the Subject. Committee acts to change Subject from the C/C EME #2 to WALK ALONE Exercise Yard based on Confidential information which indicates Subject is the target for assault. Committee further elects to change Subject from Double Cell to Single Cell based on Subject' possibly being the target for assault. Subject is not in agreement with both his yard and cell status. Change custody from MAX to MAXS. Subject actively participated in Committee discussion and decision stating that he requests a 1030 confidential disclosure pertaining to the yard suspension. Subject was advised of his appeal rights, as well as, behavioral expectations.

CASE FACTORS: Subject is a 28-year old, Other, 1st-Termer, received into CDC on 5-24-94 from Los Angeles County, for the offense of 1st degree Murder. GPL: 2.5. Reading level: 3.3. Subject was reviewed for DDP/DPP and does not meet the criteria. Medical status: Full Duty with Camp based on CDC 128C dated 2-2-01. Psych Concerns: Clear per CDC 128C dated 11-21-02. Subject was reviewed for MDO consideration and does not meet the criteria. TB code is: 32 per CDC 128C dated 5-4-02. Escapes: Clear. Arson: Clear. Sex Related Offenses: Clear. HWDs: Clear. Past substance use: Alcohol and Marijuana. CDC 812/812C notes enemies: yes. Gang Affiliation: EME Associate, and Mid City Stoner. Moniker: Chim Chim. Confidential information: yes, and all materials have been reviewed and appropriately approved. Registration required: None. Notification required: PC 296 AND PC 3058.6. Restitution ordered: \$200.00. Past disciplinary history consists of notable CDC-115s for: Delaying a Peace Officer. (2) Trafficking Narcotics, Dangerous Contraband, Leading a Disturbance, (2) Possession of Inmate Manufactured Alcohol, (2) Battery on an Inmate, Battery on an Inmate without Serious Injury, (4) Mutual Combat, Destruction of State Property, Failure to Report, threatening Staff, Failure to comply with Medication regimen, Delaying Count, and Delaying Lockup Subject is disqualified from Minimum Support Facility, Fire Camp, Community Correctional Facility, Substance Abuse Program, Restitution Center, or Community Correctional Re-entry Center Programs based on LWOP. Next anticipated review date is 5-25-03 for CDC Annual and 180 INDET Review. Subject is a Level IV 180 design Inmate based on A-1 criteria.

COMMITTEE:

K. TODD, AW
T.CASEY, CC-I *T Casey*
D. ZANCHI, FC(A)
DR. SKEEN, PSYCH PHD

J. SULLIVAN, CDW
CHAIRPERSON

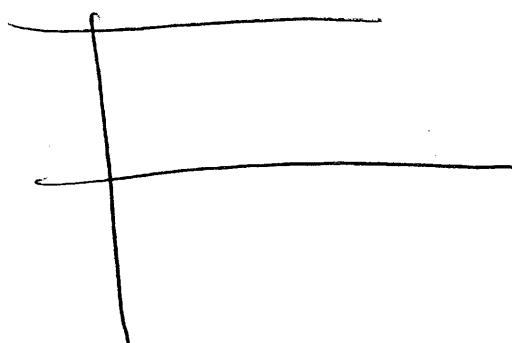
D. CHAPMAN, C&PR(A)
RECORDER

Date: 12-12-02 tlc

Classification: YARD REVIEW

Inst: CCI-IVA SHU

EXHIBIT (F.)
BURN DATES...



1
2 BURN DATES... I

- 3 9/29/07. SAT. 8:40. P.M. 9/30/07. SUN. 10:00 AM. " "
- 4 10/2/07 ^{TUE} 9:11. PM... 10/6/07. SAT. 8:48 PM ASTHMA attack...
- 5 10/8/07 8:55 AM... now 10/8/07 2:00 PM. 10/8/07, 7:32 PM. MON
- 6 10/9/07 5:07 AM smoke & ASTHMA EPISODE... 10/9/07 all day long
- 7 10/10/07 8:22 AM... 10/10/07. 6:43 PM... 10/11/07 5:50 AM
- 8 10/12/07 12:33 PM. 10/14/07 6:00 AM, & 9:34 AM...
- 9 10/14/07 11:30 AM.. 10/15/07 12:37. PM. & 11:00 PM...
- 10 10/16/07 7:52 AM 9:55 ON 10/16/07 ASTHMA EPISODE
USED INHALER 3 TIMES, 10/17/07 10:30 PM. ALL DAY
- 11 10/17/07, 3:48. STRONGER. WITH A SMELL OF GAS OR SOME
12 SOFT OF BURN CHEMICAL. EXPERIENCING CHEST PAINS
13 & SHORTNESS OF BREATH... 10/18/07: 8:30 AM...
- 14 10/19/07 12:52. PM WITH ASHES FALLING ONTO SHED YARD...
- 15 10/19/07 4:00 PM. 10/20/07: 7:19 AM. 10/20/07 10:00 PM
- 16 10/20/07 6:31. PM. 10/21/07 10:04 AM 10/21/07 6:14 PM...
- 17 10/23/07 7:50 PM... 10/27/07 5:33. AM 10/27/07. 5:00 PM
10/31/07: 10:30 AM 11/1/07, 10:15 | 11/1/07- 8:01 PM.
- 18 11/2/07 5:30 PM 11/4/07. 6:44 PM 11/9/07. 10:00 PM
- 19 11/5/07: 10:00 AM 11/6/07. 7:07 PM 11/9/07. 10:00 PM
- 20 11/10/07 9:40 AM... 11/11/07: 9:00 AM 11/11/07 4:36 PM
- 21 11/12/07 11:00 AM 11/19/07 8:42 PM 11/20/07 5:26 PM
- 22 11/21/07 4:26 PM. 11/24/07 4:58 PM 11/23/07 6:06 PM
- 23 11/24/07. 4:00 PM 11/25/07 7:55 PM 11/25/07 5:39 PM
- 24 11/26/07 2:00 PM 11/26/07 6:23 PM 12/1/07
- 25 11:57 AM 12/2/07 8:19 ON YARD & IN CELL
- 26 12/6/07 4:47 PM 12/8/07 5:15 AM 12/8/07 9:42 PM

BURN DATES... II

1
2 12/9/07 2:44 AM. asthma episode w/ CHEST pain & short
3 breaths. tried to call for INHALER. could not talk
4 loud enough to get anyones attention... 12/9/07 9:46 AM
5 WHEEZING & when went to use INHALER staff notified
6 ME that its ~~probably~~ probably wood stoves used
7 when it's cold. I asked at 3:00 in the morning
8 too? he stated ~~up~~ the turn then down
9 at night & it INCREASED the smoke..

10 12/9/07 8:44 PM. 12/10/07 6:56 AM. AND 7:30 AM
11 12/11/07 3:06 PM. AND 5:00 PM... 12/12/07 5:11 PM
12 12/13/07 6:14 PM. 12/14/07: 10:00^{AM} 12/14/07 1:47 PM
13 12/14/07 5:30 PM. 12/23/07 9:09 AM.

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1 BURN DATES CONT.^{IT}

2 12/30/07 9:00 AM. 12/31/07 6:56 PM. 1/1/08. 7:00 pm
 3 1/2/08 11:00 AM 1/11/08 6:46 PM. 1/12/08 8:08 pm
 4 1/13/08. 7:54. AM 1/15/08. 9:41. pm 1/16/08. 7:46 AM
 5 SMELLS like CAR exhaust. 1/16/08. 6:44 pm. 1/17/08.
 6 8:44 AM while at Lbw LIBRARY 1/18/08. 6:37 AM
 7 8:40 AM and 11:00 AM. IN CELL & OUTSIDE.
 8 WENT to YARD a lit AFTER 10:AM... 1/18/08 5:33 PM.
 9 1/19/08 6:06 AM 1/19/08 10:00 AND 6:40 PM. 1/20/08
 10 5:05 PM 1/22/08 5:56 PM. 1/23/08 2:42. AM EPISODE.
 11 1/23/08 12:05 PM. TIGHT CHEST. WENT to C+C. What I
 12 NOTIFIED is PK. FLOW 423. AND AT D. CLINIC STILL HAD
 13 MINOR SYMPTOMS & SHORT BREATH THEN WHEN WENT TO
 14 C+C. CHEST LOOSENERED UP. IT'S 1:44. PM STILL HAVE
 15 L.I. CHEST PAIN & SOME TIGHTNESS. WHEN REMOVED FROM
 16 THE SMOKE ENVIRONMENT FEEL BETTER...
 17 1/23/08 6:03 PM. 1/24/08 5:00PM 2/3/08. 9:01 AM
 18 2/3/08. 9:04 PM. 2/4/08 5:02 AM 2/4/08 7:07 PM
 19 2/5/08 9:10 AM 2/5/08 11: AM & 2/5/08 1:17 PM
 20 2/6/08 10:00 AM... 2/6/08 AT Lbw LIBRARY. 10:40 AM
 21 2/6/08 7:03 PM. 2/8/08 9:50 AM. 2/8/08 6:14 PM
 22 CALLED OUT FOR INHALER SEVERAL TIMES AND NO
 23 ANSWER. FROM GUNNER... KEPT CALLING TELL I RAN
 24 OUT OF BREATH... FINALLY AFTER APPROX. AN HOUR
 25 WHEN MED PASS OUT 210 TOLD C/o. I NEED MY
 26 MEDS... 2/9/08 5:20 AM 2/9/08 12:09 PM. & 7:01 PM
 27 2/10/08. 10:00 AM 2/12/08 8:58 AM... 2/13/08 6:47 AM
 28

1 BURN DATES CONT. III

2 2/15/08 8:07 REAL strong. EXPERIENCING CHEST pains &
3 REAL harsh tightness of chest 2/17/08 6:16 PM
4 2/18/08 8:00 AM 2/19/08 10:02 AM. 2/24/08 11:16 AM
5 2/25/08 9:00 PM 2/26/08 6:00 AM. 2/26/08 9:14 AM

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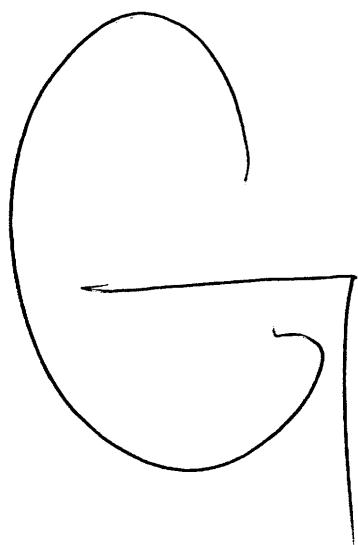
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EXHIBIT Q.





STATE OF WASHINGTON
DEPARTMENT OF HEALTH

October 2, 2007

Derrick Sims J-20913
C-2-114 PO Box 7500
Crescent City CA 95531

Dear Mr. Sims:

Thank you for your public disclosure request received September 28, 2007 for complaint information regarding Michael Clifton Sayre, MD. The complaint number you quoted, 161993029931 does not correlate to any complaints in Washington State. Dr. Sayre does have 3 complaints filed against him in Washington State. One complaint is from 1997, no complaint type available, closed with no cause for action, file destroyed per applicable retention schedule. The other two complaints are from 1992, concerning unreasonable risk, closed with final order issued 03/19/1993. Reinstatement (Terminating Jurisdiction under Stipulation and Agreed Order) issued 09/02/1993. The Washington State Department of Health database printouts and legal documents associated with the complaints are enclosed.

The complaint files from the 1992 complaints total 484 pages. The Department of Health charges \$.15 per page for copying any file that contains more than fifty (50) pages. This cost includes postage. If you would like a copy of the files, please see enclosed fee letter.

Sincerely,

A handwritten signature in black ink, appearing to read "Meredith Denn".

Meredith Denn, Coordinator
Public Disclosure Records Center
Health Professions Quality Assurance
PO Box 47865
Olympia WA 98504-7865



EXHIBIT H



STATE OF CALIFORNIA
ARNOLD SCHWARZENEGGER, Governor

GOVERNMENT CLAIMS PROGRAM
400 R Street, 5th Floor ♦ Sacramento, California 95814
Mailing Address: P.O. Box 3035 ♦ Sacramento, California 95814
Toll Free Telephone Number 1-800-955-0045 ♦ Fax Number: (916) 491-6443
Internet: www.vcgcb.ca.gov

ROSARIO MARIN
Secretary
State and Consumer Services Agency
Chairperson

JOHN CHIANG
State Controller
Board Member

MICHAEL A. RAMOS
San Bernardino County District Attorney
Board Member

KAREN McGAGIN
Executive Officer

Derrick Sims J20913
PO Box 7500
Crescent City, CA 95531

October 10, 2007

RE: Claim G569721 for Derrick Sims, J20913.

Dear Derrick Sims,

The Victim Compensation and Government Claims Board (VCGCB) received your claim on August 30, 2007.

Based on its review of your claim, Board staff believes that the court system is the appropriate means for resolution of these claims, because the issues presented are complex and outside the scope of analysis and interpretation typically undertaken by the Board. The claim has been placed on the consent agenda. The VCGCB will act on your claim at the December 13, 2007 hearing. You do not need to appear at this hearing. The VCGCB's rejection of your claim will allow you to initiate litigation should you wish to pursue this matter further.

If you have questions about this matter, please mention letter reference 99 and claim number G569721 when you call or write your claim technician/analyst at (800) 955-0045.

Sincerely,

Government Claims Division
Victim Compensation and Government Claims Board

cc: B-23 Corrections and Rehabilitation, Attn: Donna Corbin

Ltr 99 Complex Issue Reject



STATE OF CALIFORNIA
ARNOLD SCHWARZENEGGER, Governor

GOVERNMENT CLAIMS PROGRAM

400 R Street, 5th Floor ♦ Sacramento, California 95811
Mailing Address: P.O. Box 3035 ♦ Sacramento, California 95812
Toll Free Telephone Number 1-800-955-0045 ♦ Fax Number: (916) 491-6443
Internet: www.vcgb.ca.gov

ROSARIO MARIN
Secretary

State and Consumer Services Agency
Chairperson

JOHN CHIANG
State Controller
Board Member

MICHAEL A. RAMOS
San Bernardino County District Attorney
Board Member

KAREN McGAGIN
Executive Officer

Derrick Sims J20913
PO Box 7500
Crescent City, CA 95531

December 19, 2007

RE: Claim G569721 for Derrick Sims, J20913

Dear Derrick Sims,

The Victim Compensation and Government Claims Board rejected your claim at its hearing on December 13, 2007.

If you have questions about this matter, please mention letter reference 123 and claim number G569721 when you call or write your claim technician or analyst at (800) 955-0045.

Sincerely,

Laura Alarcón, Program Manager
Government Claims Program
Victim Compensation and Government Claims Board

cc: B-23 Corrections and Rehabilitation, Attn: Donna Corbin

Warning

Subject to certain exceptions, you have only six months from the date this notice was personally delivered or deposited in the mail to file a court action on this claim. See Government Code Section 945.6. You may seek the advice of an attorney of your choice in connection with this matter. If you desire to consult an attorney, you should do so immediately.

* * * * *

It is not necessary or proper to include the Victims Compensation and Government Claims Board (Board) in your court action unless the Board was identified as a defendant in your original claim. Please consult Government Code section 955.4 regarding proper service of the summons.

Ltr 123 Claim Rejection

PROOF OF SERVICE BY MAIL

(C.C.P. section 101a #2015.5, 20 U.S.C. section 1746)

I, DERRICK SIMS, am a resident of Pelican Bay State Prison, in the County of Del Norte, State of California. I am over eighteen (18) years of age and am a party to the below entitled action.

My Address is: P.O. Box 7500; Crescent City, CA 95531.

On the 3 day of 20, in the year of 2008, I served the following documents: (set forth the exact title of documents served)

(1) original 1983 civil ~~suit~~ COMPLAINT

IFP.

on the party(s) listed below by placing a true copy(s) of said document, enclosed in a sealed envelope(s) with postage thereon fully paid, in the United States mail, in a deposit box so provided at Pelican Bay State Prison, Crescent City, CA 95531 and addressed as follows:

NORTHERN DISTRICT COURT

450 GOLDEN GATE AVE

SAN FRANCISCO CA.

94102-3483

I declare under penalty of perjury that the foregoing is true and correct.

Dated this 3 day of 20, 2008.

Signed:

Derrick Sims
(Declarant Signature)

NAME: SIMS - DERICK

DC NO: J-20913 HOUSING: D-9221

PELICAN BAY STATE PRISON
P.O. BOX 7500
CRESCENT CITY, CA 95532

RECEIVED

MAR 26 2008

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

U.S. Northern Dist. of Ca.
U.S. Courthouse
450 Golden Gate Ave.
San Francisco, Ca. 94102-3483